

ELLIOTT — Wednesday 19 April 1989

PUBLIC MEETING

PRESENT: -

Committee:

Mr S. Hatton (Chairman)

Mr B. Ede (Deputy Chairman)

Mr C. Firmin

Mr W. Lanhupuy

Mr D. Leo

Mr R. Setter

Officers assisting the committee:

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

Appearing before the committee:

Ms Donna SCHUBERT

Mr Jim RENNIE

Melissa

Mr Kerry GARDINER

Mr Marcus DIXON

NOTE: This is a verbatim transcript that has been tape-checked.

ISSUED: 2 August 1989.

Mr HATTON: My name is Steve Hatton and I am the chairman of this select committee. It is a committee of the parliament of the Northern Territory and it is called the Select Committee on Constitutional Development. If you look at the back of the booklet that we have circulated, you will see names and photos of the members of the committee. It is a unique committee for the Northern Territory because it has equal numbers from the ALP and from the CLP. There are 3 members from the government and 3 members from the opposition. It is the only committee of the parliament that has equal numbers of government and opposition. That is because, in this particular exercise, the Northern Territory parliament is working in a bipartisan manner. There is no dispute between Labor and CLP on this process of writing a constitution for the Northern Territory. It is not the sort of thing that should be caught up in games of political one-upmanship or party politics. It is a process that we are genuinely working together on. It is a shame that Brian Ede, our deputy chairman, cannot be here this afternoon. He has been with us right up until this particular meeting. He has had to go with Minister John Kerin. I must apologise for our late arrival. That was because Minister Kerin had our aeroplane and he arrived an hour late. That delayed our flight out of Tennant Creek and it has caused a lot of inconvenience for all of us. At least, we can try to get through the business properly now.

You have heard a lot of talk over the years about the Northern Territory becoming a state. We are not here to ask you whether you think the Northern Territory should become a state now or not become a state. That is not the question we are dealing with. You cannot even consider the question of statehood until you know what you want. What do you want the Northern Territory to be in the future? How do you want it to operate? What rights and obligations do you want to have? How do you want the parliament to work. How do you want the judiciary and the courts to work? How do you want this Northern Territory to go? How are we going to bring together Aboriginal law and custom with European law and custom so that people from different cultural backgrounds can work side by side and move in a common direction into the future? How are we to resolve those issues and work out what sort of a place we want the Northern Territory to be in the future? Until we know that and we get those rules down and all the people of the Territory agree to those rules, we cannot even really consider the question of statehood.

The constitution is a law that is unlike any other law. It is not a law that is made by the parliament. It is not a law that is made by the government. It is a law that is made by the people. It is a law by which the people set the rules over the government. We have been describing it as the law that governs the government. When the people make that law, that cannot be mucked around with and cannot be changed by the government. The only people who can change that are the people themselves by vote in a referendum. You are making a law by which you are saying: 'That is the way we want to live and the government must fit into the framework that we have created. That is the basis of how we want to go'. That is the way that the people take power. They give rights to a government in a constitution and they put limits on what a government can do. That is where they put the things that they think are so important that no government should be able to muck around with them. They entrench certain rights so that the government must respect them and not interfere with them.

What people do not realise is that, if you do not have a constitution, governments can do what they like. They have a free rein. Some countries do not have constitutions. For example, Britain does not have a constitution.

Ms SCHUBERT: Is that right?

Mr HATTON: No, they don't. The government there, subject to the Magna Charta, which I think is the closest thing they have to a constitution, is all powerful and can do what it likes. It can pass any law it likes, subject to the Magna Charta. I think that the United States of America was about the first country to develop a constitutional system of government where they set out the limits on government and said the people would run the country.

Ms SCHUBERT: By the people, for the people.

Mr HATTON: By the people, for the people, and they did that by writing a constitution.

Ms SCHUBERT: The average Australian does not feel like the federal constitution is like that though.

Mr HATTON: But it is. That is exactly what the federal constitution does. It strictly limits the power of government. It determines how the parliament will be structured and the voting rights of the people and so on. It sets the rules. All the states have a constitution. However, those are certainly not like what we are talking about now because they were written in the last century. They were written by lawyers and politicians, passed through the British parliament and given. The people were not asked what they thought. Later, the Australian Constitution was written. Representatives from all the states came together in a convention and made the Australian Constitution. However, the nation has changed a lot in the last 100 years and, in the Northern Territory, we do not even have the protection of the Australian Constitution. Did you know that?

Ms SCHUBERT: No, I did not.

Mr HATTON: That is because we are a territory. Australia is what they call a federation of states. The 6 states all came together and handed powers to a federal government. All the powers referred to the relationship between the states and the Commonwealth and the people of the states and people of the Commonwealth. Section 122 in the Australian Constitution is the only provision that deals with territories. In layman's terms, it says the federal government can do what it likes in a territory of the Commonwealth.

Ms SCHUBERT: That is virtually what they have done with the Territory.

Mr HATTON: And it has the power to do that under the Australian Constitution. We have a government in the Northern

Territory but we are still a territory. Our government exists under the strength of a federal act of parliament, the Northern Territory Self-Government Act. It is technically possible that, by amending a regulation under that act, the federal government could wipe out entire areas of Northern Territory government services. Technically, it could wipe out the entire Northern Territory health system by amending a regulation under an act of federal act of parliament. Or the entire education system. It could return the whole thing to the Commonwealth. It has the power to do that. By repealing an act of parliament, it could wipe out any form of parliamentary or political representation in the Northern Territory so that we would have no government. It has that power.

Ms SCHUBERT: Yes, but it would never do that.

Mr HATTON: I do not believe politically that it would, but it has the power to do it. We have no entrenched rights to that. The Commonwealth has the power to enter on your personal property and acquire it and not pay you any compensation because you are not protected by the Australian Constitution in respect of that. That has been upheld by the High Court. It did that in fact when New Guinea was a territory, at Bougainville. It has acquired property without compensation in the Northern Territory, including national parks. It simply took them.

Ms SCHUBERT: It has acquired freehold land too.

Mr HATTON: Yes.

Ms SCHUBERT: It has amassed areas of freehold land.

Mr HATTON: And not paid for it.

Ms SCHUBERT: It has paid for it in some cases.

Mr HATTON: In other cases, it has not. It has taken a lot of Crown land and not paid for it. It cannot do that in the states because the constitution prevents it from doing so. It can take it but it has to pay for it. It even has to pay the state government for it. However, in the Northern Territory, it does not have to because we are a territory and we are not protected by the Australian Constitution. We do not have our own constitutionally entrenched rights. We do not have the constitutional right to a government. We have a government by the grace of the federal parliament. Aboriginal people have land rights but they have no guarantee of the continuation of land rights because it only exists under a federal act of parliament. If the government changes or it changes its mind, it could repeal the act and all Aboriginal land rights would vanish. There is no protection. What government gives, government can take away. What the people give, only the people can take away. That is where the constitution comes in. That is where you, the people, set your law, set the rules and say: 'That is how we are going to run this place and governments will live within those limits. If the government thinks it should be changed, it has to ask us to vote yes or no in a referendum'. Last year, when the federal government wanted to change the constitution, the people had to vote yes or no to 4 questions. The people voted no and the government could not do it. The same thing could be the case for a Northern Territory constitution.

Ms SCHUBERT: May I ask a question? When we decide that we have constitution that we can submit to the federal government, what stops it from intervening on something that we have proposed in our constitution that it does not like?

Mr HATTON: Well, we have a long way to go. I would not propose to ask permission of the federal parliament.

Ms SCHUBERT: Do we just say: 'This is it and you have accept it'? Land rights is a typical issue on which we might propose something in the Northern Territory with which the federal government might not agree.

Mr HATTON: That is right. No doubt, they will all be a part of the negotiations. In terms of the level of constitutional entrenchment, we must remember that Aboriginal people are saying very clearly: 'It is all very well, but if we are going to look at this sort of thing, there are some things that we regard as essential for us for the future. We want to ensure that you are not going to rip all our land off us again. We got this land under land rights and there might be different ways the Land Rights Act might work but we want to have some protection so that, if we become a state, you are not going to turn around and take all our land back and leave us destitute again'. That is one thing that is important to them.

Ms SCHUBERT: But, the rest of us also need protection against our land being acquired by the Aboriginals too. I think that is a very important issue.

Mr HATTON: That is right, and that is where this constitutional debate is going to lead. People will have to sit down together and come to some understanding of each other's point of view and start writing the rules.

Ms SCHUBERT: Yes, a federal parliament cannot refuse our constitution if we ...

Mr HATTON: I do not believe that we should even give it the option. Mr Nicholson, our constitutional lawyer, may give me some technical argument that it may be able to. I say that, in relation to issues like this, you have just got to say that it cannot. You must have the political will to take your rights.

Ms SCHUBERT: Are we financially able to finance our own constitution?

Mr HATTON: Yes, we are now. We already are. People have been frightened off by this money question. Just think about it. We already have a parliament, a complete public sector, administrative infrastructure, a court system etc. All that infrastructure is in place right throughout the Northern Territory. We have in place all the taxes and charges that they have in the rest of Australia. Our taxing system and revenue-raising system is in place. The funding that we get from the Commonwealth government is calculated by the same body that calculates it for the states - the Grants Commission - and at the same time through the relativities review, using exactly the same formulas, factors and measuring methods and the money comes out of the same tax-sharing pool. That has occurred as of last year. There are no special deals on money for the Northern Territory. The Commonwealth now funds us as if we were a state for the services and functions that we are carrying out. The services and functions change and the needs change and the formula acts to adjust that. There is no financial bonanza on statehood either. If, for example, we gain uranium mining royalties into the Northern Territory coffers, that would increase our own revenue-raising and it would decrease the amount the Commonwealth would be giving us in its funding and we would come out about equal. We would not be financially better off, but we would not be financially worse off either because we already have all the financial responsibilities of a state.

Mr SETTER: Bear in mind that, over the last 4 years, our funding has been wound back by the Commonwealth.

Ms SCHUBERT: Yes.

Mr SETTER: Back to the point that Steve mentioned.

Mr HATTON: That is what led to the debate about our becoming a state. People started saying that, if we have the financial responsibilities of a state, we should have the rights as well.

Ms SCHUBERT: Yes.

Mr HATTON: That is what started the debate on statehood.

Ms SCHUBERT: Will it make us any more top heavy with politicians?

Mr HATTON: No.

Ms SCHUBERT: We will have the same number of politicians as we have now?

Mr HATTON: It is up to the people to make those decisions in the constitution.

Ms SCHUBERT: Yes.

Mr HATTON: The argument may be, in respect of eventual statehood, on Senate representation. That question obviously has to arise in respect of the Australian Constitution and any additional representation would be paid for by the federal parliament. Should we have equal representation in the states House, the Senate? In all fairness, we should, but those matters will be debated later. Once we know what we want, then we can start talking about transfer of those powers, political representation and negotiate a structure for statehood. Until we have done this job, those other things are way down the list.

Ms SCHUBERT: We pay state taxes now, don't we? But, they are not called state taxes, are they?

Mr HATTON: They are called Territory taxes.

Ms SCHUBERT: Yes. The rate of those will not change because we become a state?

Mr HATTON: I cannot say that taxes and charges will not change. Taxes and charges always have a habit of changing from time to time. However, they will not change simply because we become a state. Our level of taxes are now in line with those in the rest of Australia. That is where the Grants Commission assesses our revenue-raising capacity, based on our charging the equivalent of what is charged in the major states. As a community, we could make a decision to have less taxes and provide less services. You can always take that decision. However, that comes within the day-to-day politics in your own community.

Ms SCHUBERT: What is of greatest concern to me is how it might affect us in terms of taxation.

Mr HATTON: We have been through that. The essential fact is that the Territory is now being run financially as if it were a state. There are no special deals.

Ms SCHUBERT: How long will it take for us to establish our constitution?

Mr HATTON: I think it will take a long time because of how we propose to go about it. It is essential that this constitution becomes very much the document of the people and people have a sense of ownership of this as their law. At the moment, we are not even asking people what they think should be in it. We are simply explaining that we are about to start this job and we want people to start thinking about it, talking about it within their communities and getting their ideas together. Later, if you want us to come back to talk about particular aspects, we will do that. We will come back and address individual issues or the entire matter.

It is important for the community to start thinking about it and come to terms with what it means. All the community - the north and south camp people too - has to be talking about it. When you have done that, we will be coming around taking submissions and views from all over the Territory, from Nhulunbuy to Docker River, from Wadeye to Finke, and all over. We will be talking to everyone we can and getting their views. We are even considering preparing tapes in different languages and having news bulletins so that people can learn what other people are saying. When they have given us their views, later this year or early next year we can start to draw together all the different views that have come from throughout the Northern Territory.

Our job will then be to prepare our recommendations on the basis of all the submissions and evidence that we have. We are not going to write the constitution for you because then it would not be yours. We will put down some ideas about what we think the people are saying. We will establish what is called a constitutional convention. In ordinary language, that means a giant committee of representatives of all of the different people and different interest groups in the Northern Territory. Their job will be to look at what we have done and accept it or change it where they think it is necessary. It is very important that the representatives at that convention are the right people and that they really do represent all the different interests in the Northern Territory in a fair way. They will debate the issues thoroughly and, when they have finished their job, they will have a proposed constitution which will be put to a vote of the people. If the people vote yes, we will have a constitution and, if they vote no, we will have to start working through it again and keep working until we get something that the people will vote yes for.

It is not going to be a quick job. It will take a lot of work. It will mean that the people throughout the Northern Territory cannot ignore the other guy's point of view. They must start talking to each other and work out among themselves how they want to live together for the future and what sort of place they want this Northern Territory to be. There is a lot of mistrust and animosity and all sorts of problems in the Territory at the moment. People are not understanding or talking to each other.

If we do this job properly, we can bring people to a common path for the future and leave for our children and our grandchildren the legacy of a place of which they can be proud, a place that we will be proud to have made a contribution to establishing. If we do not do it, if we walk away from this, if we do not take up this challenge and this responsibility, I can guarantee that our grandchildren will look back with less than respect for our generation. The opportunity is on our heads to do this job. It will not be quick because it must be done properly. We have to think not only of ourselves but also of the other side. We need to start sorting this out because we are all going to be in this Territory for a long time in the future. It would be nice to be able to live together on the basis of mutual respect and go forward in a common direction. It would be a marvellous legacy to leave behind for our kids and we can do it through this job.

Basically, that is what we came here to say and also, of course, to answer any questions that you might have. We have put

together what could be called a beginner's guide to give people the basic idea of a constitution and the sorts of things it contains. We have another book, a larger one, which is called a 'Discussion Paper on a Proposed New State Constitution for the northern Territory'.

Ms SCHUBERT: Have you got copies of that?

Mr HATTON: Yes. We will be leaving copies behind. There is about 3 years work in that. This gentleman here did most of the technical work, looking at constitutions all over the world and all around Australia and also at our own Self-Government Act. We went through those and extracted ideas from all over the world. There are things in there that we think are good and others that cause us some dismay. However, we have put them all in there so that you can read them all and even perhaps come up with some that we have overlooked. There will be some that you will like and others that you would not like to touch with a barge pole. We want you to put your mind to that task and start thinking about it. You will find that it is not as bad as it looks.

Ms SCHUBERT: Is it written in language that the lay person can understand?

Mr HATTON: I think it is. The thing to do is to pick one subject at a time and not try to look at the total picture in one go. Ask a simple question such as whether you think we should have 1 House of parliament or an Upper and Lower House. The federal parliament has the Senate and the House of Representatives. All states except Queensland have an Upper and a Lower House. There is debate about the pros and cons of having an Upper House. That is a question for you to think about.

There is information on how a Cabinet is formed and how ministers are appointed and their role. How much of that do you put into the constitution? What should be the role of the Governor or the Administrator? Should the Governor be able to dismiss the government and, if so, under what conditions? In what respect is the Governor there to protect the constitution? What is the role of the courts? How much can the courts interfere with the parliament? How much can the parliament interfere with the courts? All those sorts of things are talked about in here. Take one subject at a time and, bit by bit, you will develop an idea of how you think the Territory should be. How much should you put in constitution about voting rights? Do you think that we should have fixed term parliaments? You can write that into a constitution. In fact, the recommendation is that we have a 4-year term with a minimum of 3 years so that the government cannot call an election under 3 years. It would prevent them going to the people every 18 months. Maybe you think that is a good idea or maybe you think that it is a bad idea, but it is something to think about.

If you start developing your views on all those matters, before you know it you will have a pretty comprehensive picture of what you think should go into a constitution without tearing your brain to pieces in the process. We put together 11 typed pages of questions to be asked. However, they can be dealt with subject by subject. If you work through it, you can come up with your views and talk about them with other people. When we come back, you can tell us what you think in relation to those questions. That is how you can have your say before we even start to write things down.

There are also questions such as whether there should be constitutional entrenchment of land rights and protection for Aboriginal law, culture, language and sacred sites and, if so, how. You would not write the Land Rights Act into the constitution but maybe something to the effect that Aboriginal land rights shall exist and that they have a right to keep such land. I do not know, but I know that Aboriginal people are asking those questions. You may think that that is fair enough but that we should have in the constitution that they just can't take land off other people. Maybe that is the balance. Other people may say that they do not want anything like that in the constitution. There will be some big arguments on the way through. That is fine. Let us find all the things that we agree on first and then argue about the things on which we do not agree. Through talking to each other across the table, we might just find that we have more things in common than we realise. From talking to people from all over the Territory, I believe that Territory people, black and white, have much in common in terms of their aspirations. It is a question of sitting down and talking. It will force us all as Territorians to come to terms with the realities of the Northern Territory and how, as a people, we want to deal with those.

Rick, do you want to add anything?

Mr SETTER: I think you have covered it pretty comprehensively, Steve. But, I think it is probably important to reflect for a little while on the history of this place. In the early 1800s, the Northern Territory was first taken under the control of New South Wales and was part of the colony of New South Wales. It remained that way until 1863 when it was passed over to the colony of South Australia. It remained with South Australia until 1911 when it was passed to the Commonwealth. It was tossed from pillar to post because of the difficulties in administering and servicing it because of its

remoteness. As Steve mentioned, apart from a single brief reference to territories, the Australian Constitution is aimed directly at the states and the Commonwealth and their relationship. Thus, we do not have any constitutional rights as such.

We went through a very chequered history from 1911 until 1974 when the first fully-elected Legislative Assembly came into being. Prior to that, we had been governed by Legislative Councils and directly by the Commonwealth before that. The Legislative Council consisted of 5 elected and 6 appointed members and therefore the Commonwealth always retained control. 1974 was the turning point in our history. It did not take very long before the government of the day, the Everingham government, pushed for self-government. It negotiated a deal with the Fraser Liberal government of the day and, as a result of that, the Self-Government Act came into being.

From 1978 onwards, there has been considerable progress in the Northern Territory. Anybody who lived in the Northern Territory or even lived in Elliott prior to that time would know the progress that has taken place during the last 10 years. It has been phenomenal. I will qualify that by saying that, in the last 4 to 5 years, because of the cut back in funding, the rate of progress has had to be wound back to where we are today. As Steve pointed out, we are being funded on the same basis as all the states.

We see the developing of a constitution now as being the next step in our constitutional evolution, and we believe that we rightly deserve to have the protection of a constitution. I will not repeat all the reasons that Steve mentioned to you but, at some time in the future - and we do not put any time frame on that - we will move forward to statehood. There is no doubt about that. It will not be easy, but it will happen. Part of that step will be to develop a constitution which is in the best interests of everybody.

There are a couple of other quick points that I would like to make. If you look at this booklet, which we will be leaving with you, you will note that there are options for a grant of statehood. One of those options is by an act of the Commonwealth parliament under section 121 of the Australian Constitution, under which statehood may be granted on terms and conditions including the extent of representation of the House of Parliament as it thinks fit. What that really means is that, even at the end of the day, when you are talking about statehood, it is the Commonwealth parliament that will make the ultimate decision, not the people of the Northern Territory. Thus, we need a constitution in place which will offer us certain additional protections perhaps against certain excesses of the Commonwealth at some stage in the future.

The other thing is the matter of funding. Steve explained to you how we are approximately 70% funded by the Commonwealth. It is interesting to note that the largest state, New South Wales, is approximately 60% funded by the Commonwealth and all the others fit in between. The Commonwealth collects the majority of taxes.

Mr HATTON: They are collected on behalf of the states.

Mr SETTER: On behalf of the states. An agreement was put in place back in the 1940s between the Commonwealth and the states that the Commonwealth would collect the majority of the taxes and then distribute them back to the states by some formula which is now assessed by the Grants Commission. It is the Grants Commission which hands out the bikkies. Thus, we are not so far out of kilter with the other states with regard to the level of our funding.

Ms SCHUBERT: Does becoming a state give us powers to overseas borrowing or do we have those powers anyway?

Mr HATTON: We can borrow overseas and have done on 1 occasion. Any borrowing by the Northern Territory requires the approval of the federal Treasurer because we are a territory. The global limits of borrowing is done through the Loans Council, which is held at the same time as the Premiers Conference. The Premiers Conference is when they divvy up the Commonwealth grants to the states each year and that is when we get our money too. There is another meeting called the Loans Council at which the states are all represented. It works out what the total Australian public sector borrowing will be and what share each state will get. Because we are not a state, we are not a member of the Loans Council and therefore the federal Treasurer is our representative on the Loans Council. He is the one who says how much we can borrow and what we can borrow it for. We need his permission to borrow any money.

Ms SCHUBERT: Thus, we will be much better off with statehood in that regard.

Mr HATTON: Yes, although I am not sure it is a great advantage to be engaged in foreign borrowing. As a government, I know that we do not like the idea of foreign borrowing. There was a small loan taken out in Japanese yen as part of the borrowings for Yulara and we were caught with the devaluation of the Australian dollar. We borrowed 160 yen to the dollar and it is about 110 now. There are real problems with that unless you hedge against currency fluctuations. We are

not really keen on going overseas to borrow money. We have done it all within Australia by choice. There would be some marginal shift in our rights but, at least, at some stage we should be able to represent ourselves in the Loans Council.

Ms SCHUBERT: That is what I mean. We would be better off in that, at least, we would have our own representative there.

Mr HATTON: To argue our case about what we need.

It also makes you wonder when you hear people criticising our borrowings and how much we borrow. Every cent of that has been approved by the federal government. It is unlikely to be criticising us for the extent of our borrowings, is it? That is another example of the political nonsense that occurs at times.

Ms SCHUBERT: They call it propaganda.

Mr HATTON: Can you understand how we are going about this? I hope that we have given you something to think about. I cannot emphasise enough the importance of thinking about it and of ensuring that you have your say. It does not matter how much you disagree with the other bloke, you must have your say. Nothing could be worse than not having your say and then complaining in 4 or 5 years time that you were not asked. We are asking you now.

Mr SETTER: It would be a simple enough matter for us to write a constitution. We have done all of the research. We have the resources to be able to do it and we could sit down and write a constitution. There is no doubt about that. However, if we have not asked the people, how can we expect the people to support that constitution? In this process, we are going out to speak to every community of any size in the Territory, just as we are doing today. We will come back in 6 months or so and, by that time, you will have the opportunity to study these documents, come up with your own ideas and listen to the public debate that, doubtless, will be starting to hype up by then.

Ms SCHUBERT: I think it is wonderful. I think the feeling of the average individual is apathy towards politics and we need to do something to get out of that rut. We need to take an interest in politics and try to do something instead of sitting back and letting our politicians do everything. The general feeling of the individual is that whatever he or she says makes no difference because the politicians do what they want anyway. I think that we need to change that.

Mr SETTER: All the information that we obtain from the communities will be compiled. The relevant points from that will be extracted and documented. After that, a constitutional convention will be convened and charged with the responsibility of examining all the documentation that we have and drafting a constitution.

Mr HATTON: Do you remember the process that you went through to get community government here? I bet you did not have too many people turn up the first time that you wanted to talk about it.

Mr RENNIE: No, that is right.

Mr HATTON: There was not a great deal of interest at first, was there? But, bit by bit, as you started talking about it, more and more people became involved in it. By the end of the day, they all wanted to have a say on what would go in there, didn't they?

Mr RENNIE: Some. Not everyone.

Mr HATTON: Yes, but many did. The interest builds up. This process is the same sort of thing except that it is on a much bigger scale. It is the same sort of process that you went through. You set the rules about what sort of representation you would have on the council, what area you would cover, what the council would cover and what it could and could not do. This is the same sort of process, but for the next tier of government.

Ms SCHUBERT: What are your responses at the schools? Are the students showing an interest?

Mr HATTON: We are just starting to go to the schools.

Ms SCHUBERT: I think that in the schools is where you have to spark an interest in our political system. That is very important.

Mr HATTON: We have. The Department of Education now has a parliamentary liaison officer putting together a

parliament, government and states program. The constitutional development process is being built into the states program. It might be available from next year.

Ms SCHUBERT: Oh, that is good. That it what they do in the United States. They made us study the United States Constitution in grade 8 and it really sparked an interest.

Mr HATTON: This is actually studying how to make a constitution. It is an interesting one again. In addition, we have now been given approval to talk to senior secondary students in particular about the work that the committee is doing. Many of those students will be voters when the proposed constitution is put to a vote. I would be surprised if we get this job finished within 3 to 5 years. It is that sort of a time frame.

Mr SETTER: We have already been on it for 3 years. However, until now, most of the work has been in committee. An enormous amount of time and research went into the production of the documents that you see here.

Mr HATTON: Now we are going out to the communities. We have some posters that we would like to leave with you. They say exactly that: 'Have Your Say'.

Ms SCHUBERT: I know that they are advertising it really well on Imparja.

MELISSA: What in language?

Ms SCHUBERT: No. They have exactly this.

Mr SETTER: No, our ads are not yet in language.

Mr HATTON: We are talking about producing material such as this booklet in language and making tapes in different languages for people to listen to.

Mr GARDINER: Perhaps even simpler documents than this one. I realise that there are very complex issues involved and I can see that attempts have been made to adopt a simple approach. However, you are dealing with illiterate people and you need a much more diagramatic presentation of ideas.

Mr HATTON: Interestingly, I have found that, in many cases, it is easier to explain the concepts in the very traditional Aboriginal communities than I have in the white community. The level of constitutional illiteracy among the white populace is frightening. In the last 10 years, the Aboriginal people have had to wrestle with constitutions for housing associations and for community government or community associations and for the land councils. Every 5 minutes, someone has turned up wanting to talk to them about a constitution for this, that or the other. They understand the idea of a constitution really well. The idea of community decision-making processes is well developed in Aboriginal communities, more so than in our own society where the nature of our system is one of having 2 parties fighting each other. It is almost alienation rather than organic, community decision-making.

Ms SCHUBERT: I find it very interesting that you are giving the people a say because I simply assumed that, when you became a state, you would already have a constitution and you just put it in and that was it. I think it is a really good opportunity for all the Northern Territory people to have a say. I applaud you.

Mr SETTER: Times have changed since the last constitution was written. The last one was written at the end of the last century and adopted in 1901 when the Commonwealth was formed. Community attitudes and opinions and a whole range of things have changed dramatically in this country since then and therefore this constitution will not be like any of the others.

Ms SCHUBERT: It will be unique?

Mr HATTON: Probably.

Mr SETTER: In principle, it will be similar but all the issues will be addressed.

Mr HATTON: Maybe the people will come back and say that all they want in it are half-a-dozen basic things. That could be done: provide for the parliament, the courts, the administration, voting rights and leave it at that. That is what some states have done. You could do that tomorrow if you wanted. Or perhaps you want something like the New Guinea

Constitution that deals with all sorts of additional laws and complex issues. The community itself will sort that out. The community itself will make those sorts of decisions. I do not want to make them for you. None of us wants to make them for you. It is for you to tell us.

Ms SCHUBERT: I think people would have much more confidence in the constitution if they know that they have had their say and that they have contributed to it. That will build confidence in the Territory.

Mr HATTON: Sure. It will become their property.

Mr SETTER: One thing that people must realise is that, at the end of the day, the constitution cannot address everybody's interests. That is simply not possible.

Ms SCHUBERT: Win some, lose some.

Mr HATTON: It will set the foundations.

Mr SETTER: The majority vote will carry the day, whatever that might be. But, at least, everybody will have had the opportunity to have input.

Mr HATTON: Do you want to raise anything? The fellows up the back?

Mr RENNIE: Not really. We cannot say much until we have actually gone through your other material and find out what is in it. We can then pick the guts out of it and find out what suits us. That is all we can do. And then we can comment on it.

Mr DIXON: What has been the Aboriginal people's response so far to what you people are doing? You were saying before that they were getting the message.

Mr HATTON: This morning's meeting at Jurnkurakurr was the first time we got into an urbanised Aboriginal community or organisational structure. Before that, we have been to the communities in the bush. All of those meetings have started out with people wondering what the meeting was all about, sitting there, not particularly interested. However, the more people thought about it and started realising what this can mean and how important it can be, not only for themselves but in terms of setting a law that will be unable to be changed by government, that can tell government what it can do and what it cannot muck about with, the more they grasped its significance. During the course of the meeting, you could see interest growing and, in all cases, the people wanted to go away and talk about it among themselves. I feel that there will be feedback from the majority of Aboriginal communities and we hope to visit some places more than once.

Mr SETTER: We have already visited 20 or 30 Aboriginal communities in the southern part of the Territory. The thing that I have gleaned out that is that the people want to protect their land and their sacred sites and, apart from that, they want equal opportunity with everybody else in the community. They do not want any special rights. They simply want to have equal opportunity for education services, health services, housing and everything else as the people in urban communities. That came across time after time.

Mr HATTON: It was interesting yesterday that one person was arguing that there should be the Aboriginal community there and the white people there. The rest of the people said that they did not want it to be like that. They said they wanted people to be side by side, going down the same road. However, people have to understand that there are 2 sides to that road with each side having its own law, language and culture that is important to it. How do we stop them bumping into each other all the time? How do we provide that they can work side by side with respect for each other so that one side is not trying to stand on top of the other? That is what is in the minds of the Aboriginal communities and I think that it is in the mind of most of us. White people do not want to stand over the top of Aboriginal people and they do not want Aboriginal people to be standing over the top of them either. Is that fair comment?

MELISSA: Yes.

Mr HATTON: As a community, you must see if you can develop rules so that can happen.

Mr SETTER: Are there any other questions?

Mr HATTON: Okay, thank you very much.

Mr RENNIE: You reckon that you will be back in about 6 months?

Mr HATTON: If you have a meeting as a community and you would like someone to come and provide information on particular matters, we would be happy to arrange that. That is part of the process. Later on, towards the end of this year or early next year, we will come back to receive submissions. However, we want to allow a period where you have time to work through it individually and as a community. Nevertheless, later this year or early next year, we will be back.