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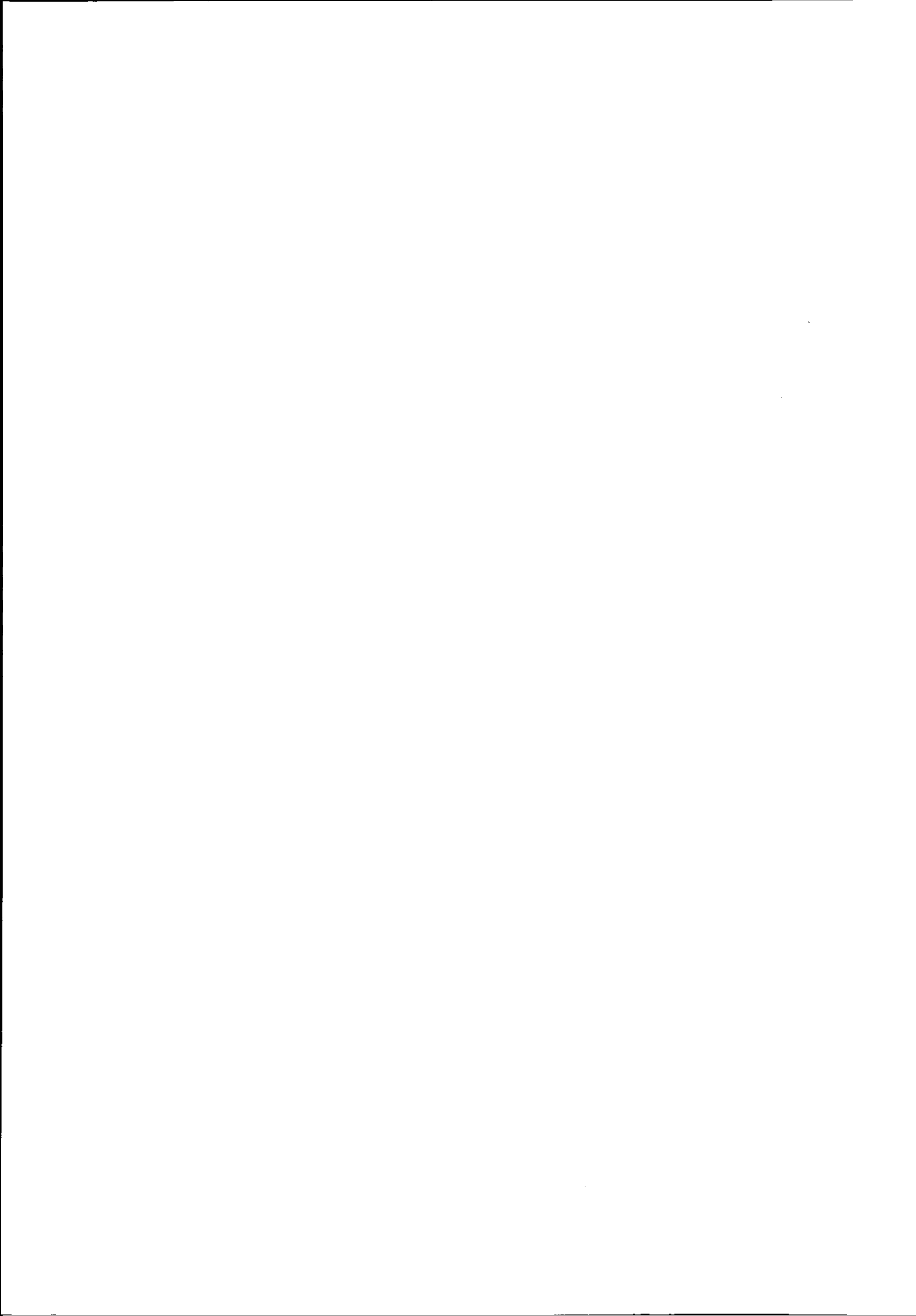
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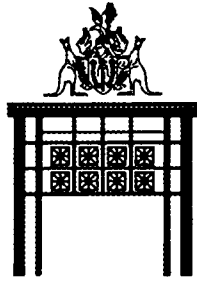
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LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

**Sessional Committee on
Constitutional Development**

**Annual Report
1 July 1993 — 30 June 1994**



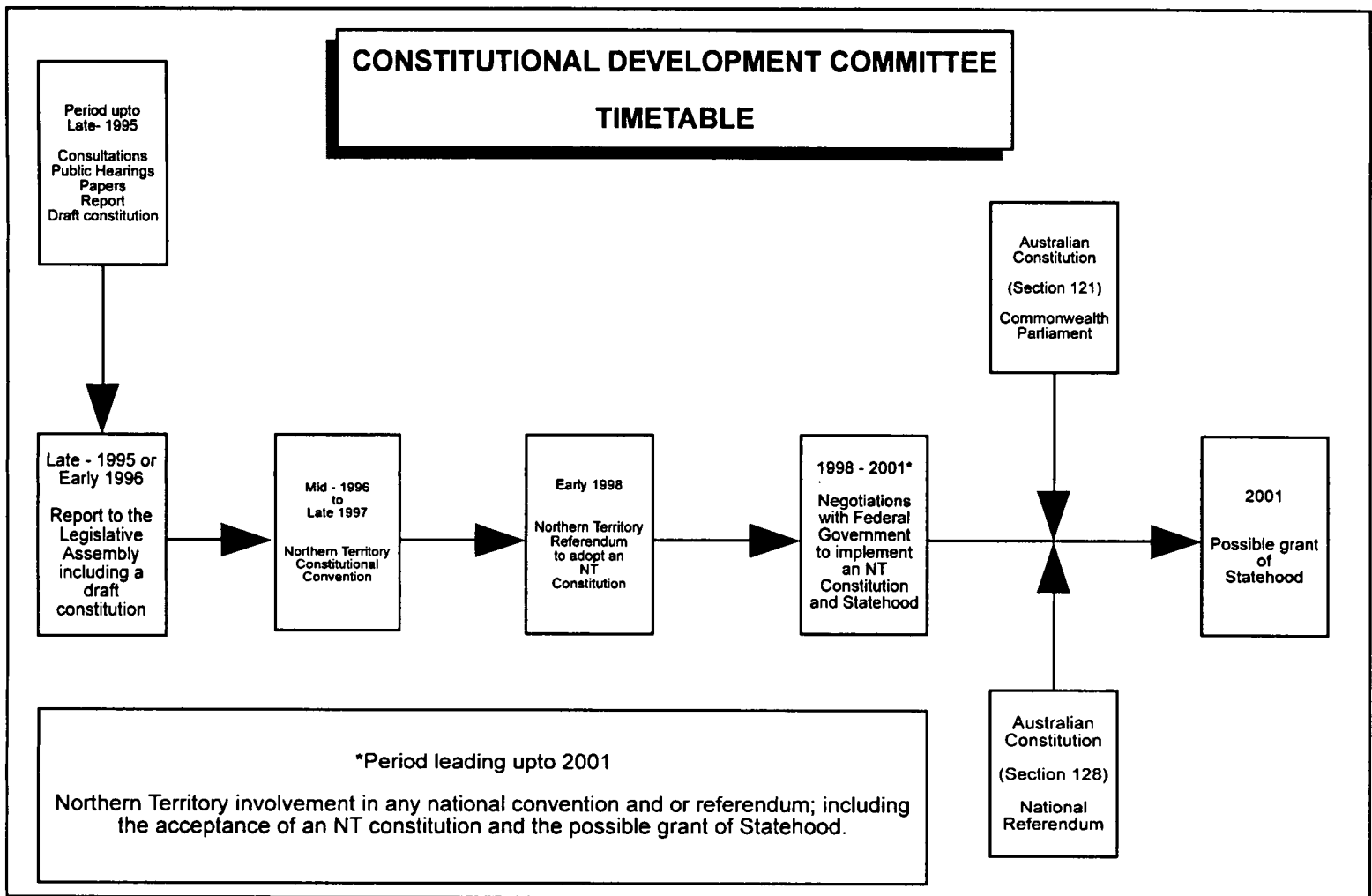


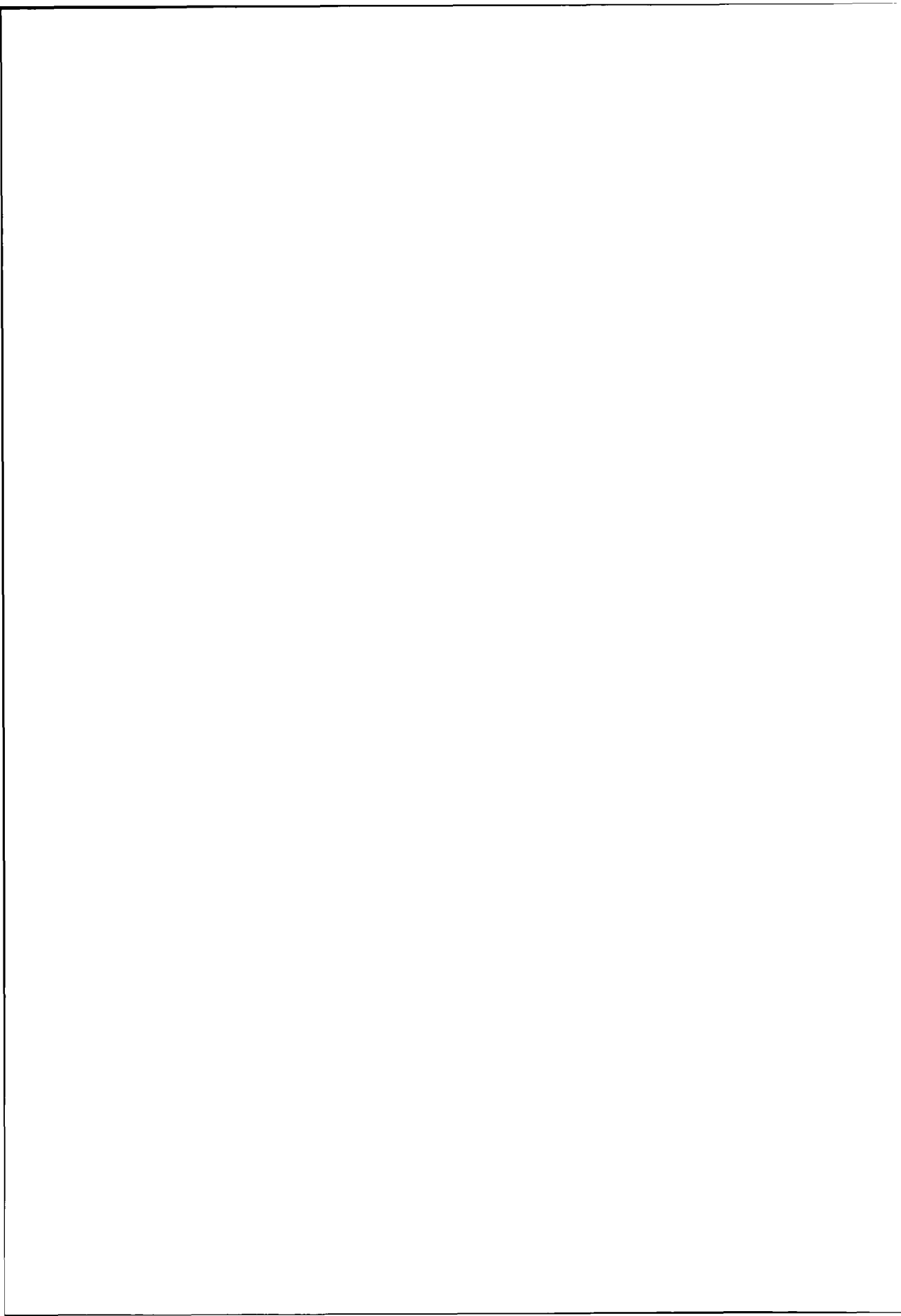
LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Sessional Committee on Constitutional Development

ANNUAL REPORT

1 July 1993 — 30 June 1994





MEMBERS OF THE COMMITTEE

Membership of the Committee as at 30 June 1994

Honourable S P Hatton, MLA (Chairman)

Mrs M A Hickey, MLA (Deputy Chairman)

Mr J D Bailey, MLA

Mr M J Rioli, MLA

Mr T D Baldwin, MLA

Mr P A Mitchell, MLA

Secretary: Mr R J Gray

PLEASE NOTE: *The Chief Minister and the Leader of the Opposition although not members of the Committee, may attend all meetings of the Committee, may question witnesses and may participate in deliberations of the Committee, but may not vote.*

Details of members who have served on this Committee since its establishment on 28 August 1985 are shown in Appendix 1

APPENDIX 7

TIMETABLE

PUBLIC SUBMISSIONS REGISTER

| Sub. No. | From | Date Presented |
|---------------------|---|---------------------------|
| 111 | Mr Garry McIlwaine, Barrister-at-Law, NSW | 29.06.94 |
| 112 | Mr Bruce Hannaford, SA | 29.06.94 |
| 114 | Mr K T Borrow, SA | 29.06.94 |
| 115 | Mr John Turner, MP, NSW | 29.06.94 |

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PUBLIC SUBMISSIONS REGISTER

| Sub. No. | From | Date Presented |
|-------------|--|-------------------|
| 72 | T S Worthington-Eyre | 04.03.92 |
| 73 | R M Harris | 04.03.92 |
| 74 | J M Fitzgerald | 04.03.92 |
| 75 | K F Fletcher | 04.03.92 |
| 76 | Office of Local Govt (R Lesley) | 04.03.92 |
| 77 | D Shannon | 04.03.92 |
| 78 | P R Hockey | 04.03.92 |
| 79 | L Nightingale | 04.03.92 |
| 80 | Katherine Town Council (N Lockley) | 04.03.92 |
| 81 | Attorney General's Dept (Canberra) | 04.03.92 |
| 82 | Dept of Chief Minister (P Conran) | 04.03.92 |
| 83 | F Cowman JP | 04.03.92 |
| 84 | P Adams | 04.03.92 |
| 85 | Voters Action Association | 04.03.92 |
| 86 | Office of Local Government - Phegan | 04.03.92 |
| 87 | Raprora | 04.03.92 |
| 88 | D W Collins, MLA | 20.05.92 |
| 89 | A Markham, Lord Mayor, Darwin | 20.05.92 |
| 90 | Mr A Millar, Sydney | 03.03.93 |
| 91 | The Hon. Justice D K Derrington | 03.03.93 |
| 92 | Mr J B Forscutt | 03.03.93 |
| 93 | Mrs Wanda Teakle | 03.03.93 |
| 94 | Mr H M Campbell | 03.03.93 |
| 94a | Mr H M Campbell | 03.03.93 |
| 95 | Mr John McKenzie | 03.03.93 |
| 96 | Mrs Joan Macnee | 28.05.93 |
| 96a | Mrs Joan Macnee | 28.05.93 |
| 97 | Mrs V Campbell | 28.05.93 |
| 97a | Mrs V Campbell | 28.05.93 |
| 98 | Mr Bruce Reyburn | 28.05.93 |
| 99 | Mr Peter Slipper, MP | 28.05.93 |
| 100 | Yirrkala Dhanbul Community Association | 28.05.93 |
| 101 | Ms Bromley, Darwin City Council | 28.05.93 |
| 102 | Aboriginal & Torres Strait Islander Commission, Canberra | 28.05.93 |
| 103 | Chief Justice David Malcolm, WA | 29.06.93 |
| 104 | Rev. Dr Djiniyini Gondarra, Aboriginal Resource & Development Services | 28.08.93 |
| 105 | Mr Dennis Collins, MLA | 20.10.93 |
| 106 | G E Ryan, Toornima, NSW | 20.10.93 |
| 107 | K T Borrow, Erindale, SA | 20.10.93 |
| 108 | The Hon. Ron Bowden JP MLC, Victoria | 20.10.93 |
| 109 | Mr George Seitz MP, Victoria | 20.10.93 |
| 110 | NT Department of Correctional Services | 01.12.93 |

PUBLIC SUBMISSIONS REGISTER

| Sub. No. | From | Date Presented |
|-------------|---|-------------------|
| 35 | R G Kimber | 24.05.89 |
| 36 | P R Hockey | 24.05.89 |
| 37 | R Vaughan-Smith | 24.05.89 |
| 38 | G Norton | 30.08.89 |
| 39 | Dr P K Thorn | 30.08.89 |
| 40 | G Brown | 30.08.89 |
| 41 | P Gough | 30.08.89 |
| 42 | National Spiritual Assembly of the Baha'is of Australia | 30.08.89 |
| 43 | D Shannon | 30.08.89 |
| 43a | D Shannon | 18.10.89 |
| 44 | M Lonsdale | 18.10.89 |
| 45 | A J Hosking & Associates Pty Ltd | 18.10.89 |
| 46 | R D Tremethick | 18.10.89 |
| 47 | N T Council of Government School Organisations. | 18.10.89 |
| 48 | E B M James | 18.10.89 |
| 49 | B Reyburn | 29.03.90 |
| 50 | Julalikari Council Inc | 19.04.89 |
| 51 | People's Law (Colin Gray) | 08.05.91 |
| 52 | Citizens' Initiated Referendum (Ted Mack) | 15.07.91 |
| 53 | F McGuirk | 09.10.91 |
| 54 | G Orr | 20.11.91 |
| 55 | Men's Confraternity (Inc) M Ward | 20.11.91 |
| 56 | K Crombie | 20.11.91 |
| 57 | M Webb | 20.11.91 |
| 58 | R G (Dick) Kimber | 20.11.91 |
| 59 | F Walker, QC MP | 20.11.91 |
| 60 | K Wright, MP | 20.11.91 |
| 61 | Gympie Electorate Citizens Referenda | 20.11.91 |
| 62 | Constitutional Heritage Protection Soc. | 20.11.91 |
| 63 | B Mahar | 20.11.91 |
| 64 | K Bain | 20.11.91 |
| 65 | H Pfeifer | 20.11.91 |
| 65a | H Pfeifer | 20.11.91 |
| 66 | M Watson | 20.11.91 |
| 67 | People's Law - Mentone | 20.11.91 |
| 68 | S Fleming | 20.11.91 |
| 69 | J Sosso | 20.11.91 |
| 70 | Australian Recovery Movement | 20.11.91 |
| 71 | Senator Cheryl Kernot | 04.03.92 |

CHAIRMAN'S STATEMENT

The Committee has been in existence since 1985, firstly as a Select Committee, and more recently as a Sessional Committee. Its primary task is to report to the Legislative Assembly on a new constitution for the Northern Territory in conjunction with a future grant of Statehood. Activity increased with the inception of the Northern Territory Government's *Towards Statehood* program during the mid-1980s.

This led to the publication of a number of discussion and information papers and the holding of a number of community consultations throughout the Northern Territory. As a result of a change in Government emphasis and to budgetary restraints, community consultations ceased. Recently, there has been an increase in Committee activity, with the publication of several discussion papers on critical topics and the *Constitutional Change in the 1990s Conference* organised by this Committee in Darwin during 1992.

A major difficulty facing the Committee at this stage in framing a new constitution lies in identifying where the national debate on Aboriginal reconciliation is heading under the changes brought about by the *Mabo* decision and the *Native Title Act*, and exactly how they will impact on the social, economic and political development of the Territory. These issues are extremely complex and it makes the task of drafting suitable provisions in a new Northern Territory constitution difficult.

In July 1993 Committee member Mr Wes Lanhupuy, MLA visited Port Moresby in Papua New Guinea to attend an international conference on customary law. Whilst in Papua New Guinea, Mr Lanhupuy met with politicians and government officials to discuss issues relating to the village and land court systems, the administration of customary land usage and dispute resolution.

During September 1993, I visited Canada and the United States of America, in my role as Minister for Aboriginal Development, Lands, Housing and Local Government. Mr Lanhupuy also came with me on the Canada leg, but had to return to the Northern Territory due to customary obligations in his electorate. The purpose of my visit was to examine a number of issues relating to indigenous land regimes, economic development in respect of those lands, the growing constitutional and jurisdictional issues relating to indigenous self-determination, in order to understand and assess the merits or otherwise in applying them in a Northern Territory perspective.

The outcome of these visits has provided a valuable insight in understanding the complex constitutional and legislative arrangements that governments have to work within when dealing with indigenous political and administrative structures. The difficulty, however, lies in how these international developments can be transposed in the developing constitutional and legislative framework of the Northern Territory.

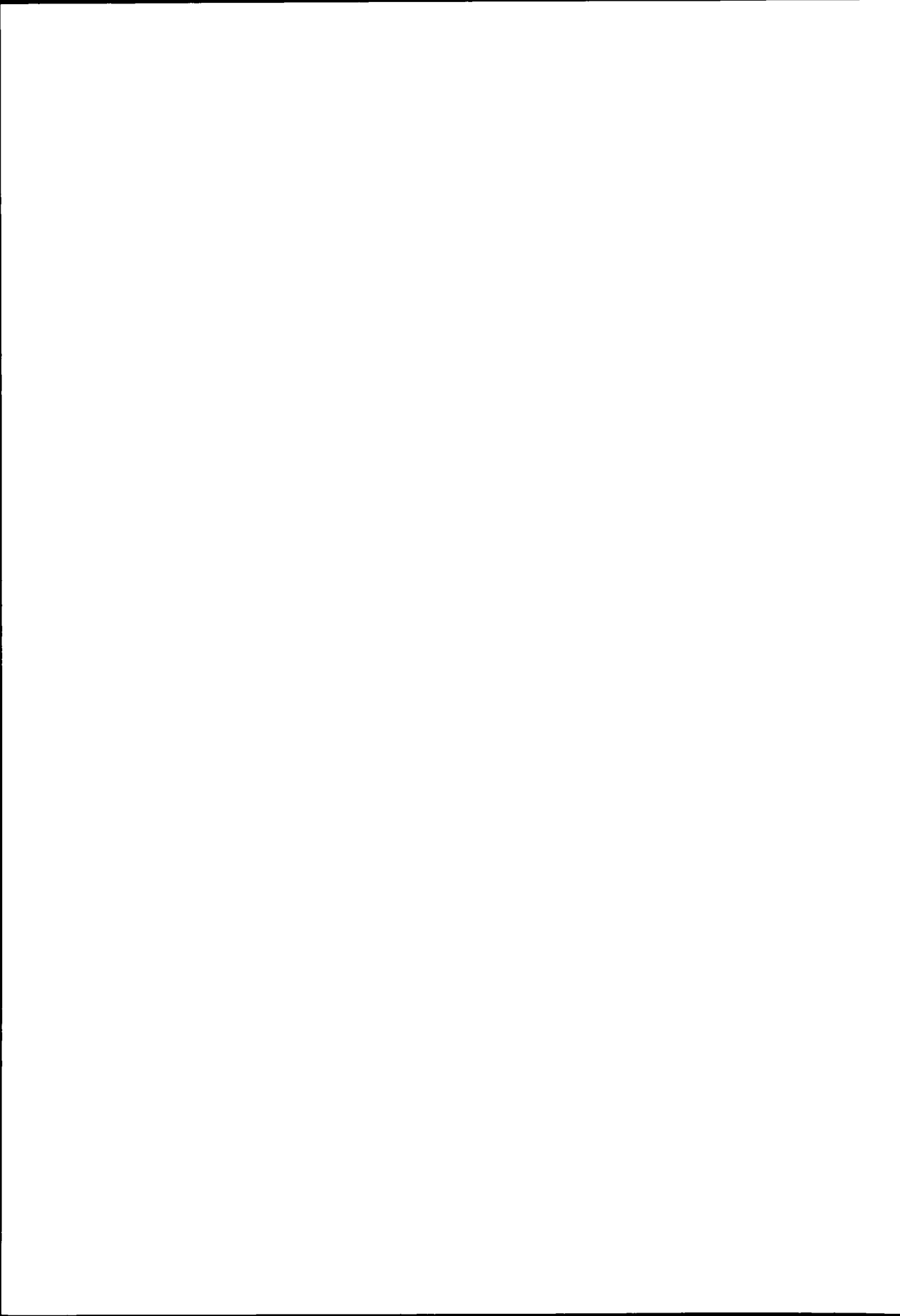
On 17 May 1994, Parliament was prorogued which saw the cessation of the Committee. On 27 June 1994 the Committee was reconstituted with four new members; Mrs Hickey (Deputy Chairman), Messrs Baldwin, Mitchell and Rioli. I would also like to place on record my thanks to the former members; Messrs Cartwright, Lanhupuy, McCarthy and Setter, all of whom provided valuable support to the Committee during the year.

Finally, I would like to conclude that the work of the Committee through the publication of its discussion papers and the implementation of its public awareness programs, together with information gained from the recent overseas visits, will assist it in formulating a series of recommendations for a new Northern Territory constitution that will accommodate the needs and aspirations of today's society.

STEVE HATTON
Chairman

PUBLIC SUBMISSIONS REGISTER

| Sub. No. | From | Date Presented |
|-------------|--|-------------------|
| 1 | A J Hosking, Nakara | 02.03.88 |
| 2 | K Fletcher, Darwin | 02.03.88 |
| 2a | K Fletcher | 30.08.89 |
| 3 | W Whiley, NT Women's Advisory Council, Groote Eylandt | 02.03.88 |
| 4 | Prof. J M Thomson, University College NT (personal) | 02.03.88 |
| 5 | P Jull, Queensland | 02.03.88 |
| 6 | Alice Springs Town Council | 02.03.88 |
| 7 | NT Women's Advisory Council | 02.03.88 |
| 8 | Darwin Institute of Technology | 02.03.88 |
| 9 | NT Local Govt. Association | 02.03.88 |
| 10 | Northern Territory Community Government Association | 05.05.88 |
| 11 | Tangentyere Council Inc | 05.05.88 |
| 12 | The Federated Miscellaneous Worker's Union of Australia | 26.05.88 |
| 13 | Northern Territory Trades & Labour Council | 10.08.88 |
| 14 | Office of Equal Opportunity, Department of Labour & Administrative Services | 10.08.88 |
| 15 | P R Hockey, Katherine | 05.10.88 |
| 16 | P Mitchell, Darwin | 05.10.88 |
| 17 | H Compton, Darwin | 05.10.88 |
| 18 | J Hare, Darwin | 10.08.88 |
| 19 | P McNab | 10.08.88 |
| 20 | Northern Territory Bar Association | 05.10.88 |
| 20a | Northern Territory Bar Association | 24.05.89 |
| 21 | K T Borrow, Adelaide | 05.10.88 |
| 22 | Alderman J Antella, Acting Lord Mayor, Darwin City Council | 05.10.88 |
| 22a | Darwin City Council | 29.03.90 |
| 23 | Ms S K, Canberra | 24.05.88 |
| 24 | Mr R G (Dick) Kimber, Alice Springs | 24.05.88 |
| 25 | Australian Small Business Association | 24.05.88 |
| 26 | Northern Territory University | 24.05.89 |
| 27 | NT Trades & Labour Council | 24.05.89 |
| 28 | K A McGregor-King | 24.05.89 |
| 29 | J B Forscutt, JP | 24.05.89 |
| 30 | D J Gans | 24.05.89 |
| 31 | F Schmidt | 24.05.89 |
| 32 | Alice Springs Peace Group | 24.05.89 |
| 33 | Tennant Creek Town Council | 24.05.89 |
| 34 | T S Worthington-Eyre | 24.05.89 |
| 34a | T S Worthington-Eyre | 30.08.89 |
| 34b | T S Worthington-Eyre | 22.07.91 |



1. INTRODUCTION

Establishment of Committee

On 28 August 1985, the Legislative Assembly by resolution, established the Select Committee on Constitutional Development. On 30 November 1989 the Legislative Assembly resolved to amend the Committee's Terms of Reference changing its status from a select committee to a sessional committee. The Sessional Committee was reconstituted on 27 June 1994.

Terms of Reference

The Committee's primary terms of reference are:

1. to inquire into, report and make recommendations to the Legislative Assembly on:
 - (a) a Constitution for the new State and the principles upon which it should be drawn, including:
 - . legislative powers;
 - . executive powers;
 - . judicial power; and
 - . the method to be adopted to have a draft new state Constitution approved by or on behalf of the people of the Northern Territory;
 - (b) the issues, conditions and procedures pertinent to the entry of the Northern Territory into the Federation as a new State; and
 - (c) such other constitutional and legal matters as may be referred to it by:
 - . relevant ministers; or
 - . resolution of the Assembly;
2. to undertake a role in promoting the awareness of constitutional issues to the Northern Territory and Australian populations.

Additional Terms of Reference

On 31 May 1993, the Committee received additional terms of reference from the Chief Minister. The additional terms of reference relate to the national debate on Republicanism and the implications for the Northern Territory, both as a Self-governing Territory and as a new State, should an Australian Republic be established in the future.

The full details of the Committee's Terms of Reference, including the additional terms of reference, are shown in Appendices 2 and 3 respectively.

Membership of the Committee

Membership of the Committee comprises equal numbers of Government and Opposition members.

On 17 May 1994 Parliament was prorogued which saw the cessation of the Committee.

Membership of the Committee prior to the date of proroguing:

The Hon S P Hatton, MLA (Chairman);
Mr J Bailey, MLA (Deputy Chairman);
Mr G Cartwright, MLA;
Mr W Lanhupuy, MLA;
Mr T McCarthy, MLA; and
Mr R Setter, MLA.

On 27 June 1994, the Committee was reconstituted with the following membership:



Hon S P Hatton, MLA (Chairman)
Minister for Aboriginal Development,
Minister for Lands, Housing and
Local Government
Country Liberal Party
Member for Nightcliff
First elected: 3 December 1983
SCCD Membership:
Chairman:
. (15 May 1986 - 7 March 1987)
. (28 April 1987 - 14 July 1988)
. (28 August 1988 - 5 October 1990)
. (4 December 1990 - 17 May 1994)
. Reappointed Chairman: 27 June 1994.



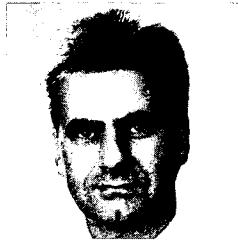
Mrs M A Hickey, MLA (Deputy Chairman)
Deputy Leader of the Opposition
Australian Labor Party
Member for Barkly
First elected: 27 October 1990
SCCD Membership:
. Appointed Deputy Chairman: 27 June 1994
Other Committees: Standing Orders.

APPENDIX 6

**LIST OF SUBMISSIONS RECEIVED
AS AT 30 JUNE 1993**

SUMMARY OF DELIBERATIVE MEETINGS

| Meeting No. | Date | Key Agenda Items |
|--|--------------|--|
| 22 | 2 March 1994 | <ul style="list-style-type: none"> . Adoption of Discussion Paper No. 7 - "<u>An Australian Republic? Implications for the Northern Territory</u>". . Committee Preliminary Estimates for 1994/95. . Proposed NT Constitution - Legislature, Executive and Judiciary. . Australasian Study of Parliament Group Conference - Darwin. . Australian Federalism Conference - Melbourne. |
| <u>Parliament prorogued 17 May 1994</u> | | |
| 1 | 29 June 1994 | <ul style="list-style-type: none"> . Committee Terms of Reference. . Appointment of Chairman. . Appointment of Deputy Chairman. . Tabling of Discussion Paper No. 7 - "<u>An Australian Republic Implications for the Northern Territory</u>". . Committee Evaluation Report. . Committee Budget 1994/95 allocation. . ATSIC Regional Councils and Constitutional Development. . Australasian Study of Parliament Group Conference - Darwin. . Australian Federalism Conference, Melbourne. . Establishment of NT Chapter of the Constitutional Centenary Foundation. . Future meeting dates. |



Mr J D Bailey, MLA

Australian Labor Party

Member for Wanguri

First elected: 19 August 1989

SCCD Membership:

. (10 October 1989 - 5 October 1990)

. (4 December 1990 - 17 May 1994)

. Reappointed: 27 June 1994

Other Committees: Public Accounts,
Environment, New Parliament
House.



Mr Tim Baldwin, MLA

Country Liberal Party

Member for Victoria River

First elected: 4 June 1994

SCCD Membership:

. Appointed : 27 June 1994

Other Committees: Publications.



Mr P A Mitchell, MLA

Country Liberal Party

Member for Millner

First elected: 4 June 1994

SCCD Membership:

. Appointed : 27 June 1994

Other Committees: Publications,
Environment.



Mr M J Rioli, MLA

Australian Labour Party

Member for Arafura

First elected: 7 November 1992

SCCD Membership:

. Appointed: 27 June 1994

Other Committees: Publications,
Subordinate Legislation and Tabled
Papers.

Functions of the Committee

The Committee derives its authority from the *Northern Territory (Self Government) Act 1978 (Cth)* and the *Legislative Assembly (Powers and Privileges) Act*. Under its terms of reference, the Committee has power to appoint sub-committees and to refer to any such sub-committee any matter that it is empowered to examine. Four members of the Committee constitute a quorum of the Committee whilst two members of a sub-committee constitute a quorum of that sub-committee.

The Committee or any sub-committee also has the power to:

- (a) send for persons, papers and records;
- (b) to adjourn from place to place;
- (c) to meet and transact business in public or private session;
- (d) to sit during any adjournment of the Assembly;
- (e) print from day to day such papers and evidence as may be ordered by it; and
- (f) unless otherwise ordered by the Committee, a daily *Hansard* shall be published of such proceedings of the Committee as take place in public.

Sub-Committee Membership

The Committee established sub-committees to take evidence and to promote discussion and awareness of constitutional issues throughout the Northern Territory.

Appendix 4 details the sub-committee membership as at 30 June 1994

Hearings and Meetings

Meetings of the Committee usually follow one of the following formats:

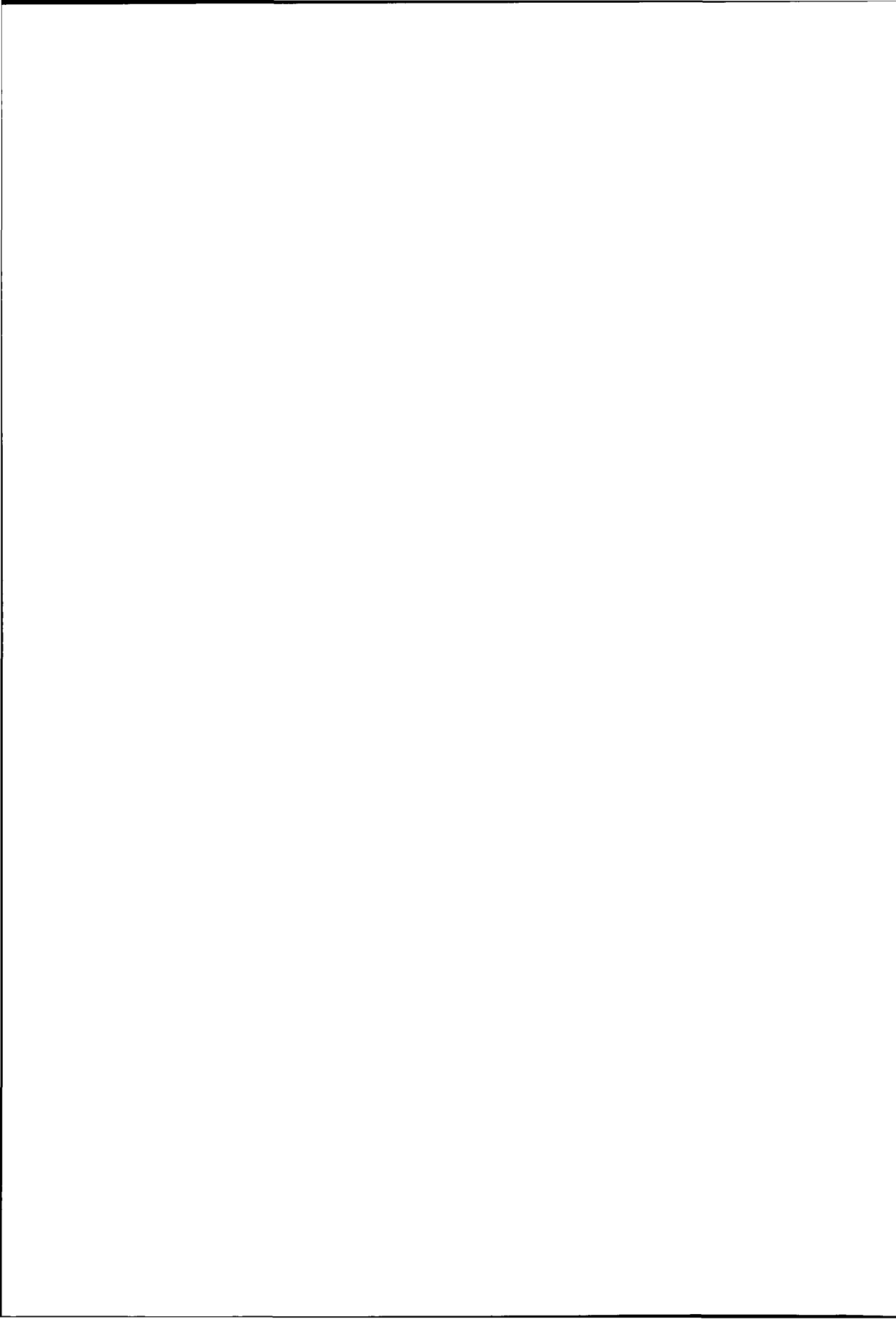
Public Hearings

Hearings are open to the public, including the media. The media may report any public session of the Committee, unless otherwise ordered by the Committee. Submissions to the Committee can be in written form or presented orally.

The Committee may also authorise the televising of the hearings under such rules as the Speaker of the Legislative Assembly may consider. Transcripts of the proceedings are produced by *Hansard*.

SUMMARY OF DELIBERATIVE MEETINGS

| Meeting No. | Date | Key Agenda Items |
|--------------------|-----------------|---|
| 19 | 25 August 1993 | <ul style="list-style-type: none"> . Customary Law Conference - Port Moresby, Papua New Guinea. . Tabling of Discussion Paper No. 6 - "<u>Aboriginal Rights and Issues - Options for Entrenchment</u>". . Briefing Tennant Creek Town Council. . NT Aboriginal Constitutional Convention - Tennant Creek. |
| 20 | 20 October 1993 | <ul style="list-style-type: none"> . Terms of Reference on Republicanism from Chief Minister. . Australian Study of Parliament Group - Melbourne Conference. . Committee Workload and Strategies for 1994 and beyond and draft timetable for statehood. . Chairman's Report on his visit to Canada and USA. . 1992/93 Committee Annual Report. . Final Report and Draft Constitution. . Discussion Paper No. 6 - "<u>Aboriginal Rights and Issues - Options for Entrenchment</u>". |
| 21 | 1 December 1993 | <ul style="list-style-type: none"> . Australasian Study of Parliament Group. . Discussion Paper No. 7 - "Discussion Paper No. 7 - "<u>An Australian Republic? - Implications for the Northern Territory</u>". . Adoption of Committee Annual Report for 1992/93. . Committee Workload and Strategies for 1994. |



Deliberative Meetings

This format is used for private meetings of the Committee where "confidential" matters and the proceedings of the Committee may be discussed, together with general administrative business. Deliberative meetings are minuted but are not transcribed by *Hansard*.

Briefings

Briefings are not open to the public and are generally of a confidential nature and may go before, during or after a public hearing or be used in gathering general information by the Committee.

Taking of Evidence

Like all parliamentary committees, the Committee's effectiveness is largely reliant on the type and content of information developed, gathered or submitted during its deliberations. The source and content of information, in the written and oral submissions received by the Committee, can be of a professional and specialist nature on specific subjects, or the promotion and presentation of particular attitudes and trends and ideas

Discussion and Information Papers

The Committee has prepared the following publications:

- Information Paper No. 1: *Options for a Grant of Statehood, (September 1987);*
- Information Paper No. 2: *Entrenchment of a New State Constitution, (October 1989);*
- Discussion Paper on *A Proposed New State Constitution for the Northern Territory, (October 1987);*
- Discussion Paper on *Representation in a Territory Constitutional Convention, (October 1987);*
- Discussion Paper No. 3: *Citizens' Initiated Referendums, (August 1991);*
- Discussion Paper No. 4: *Recognition of Aboriginal Customary Law, (August 1992);*
- Discussion Paper No. 5: *The Merits or Otherwise of Bringing an NT Constitution into Force before Statehood, (March 1993);*
- Discussion Paper No. 6: *Aboriginal Rights and Issues- Options for Entrenchment, (July 1993);*
- Discussion Paper No. 7: *An Australian Republic? - Implications for the Northern Territory, (March 1994);*

-
- A plain English booklet entitled *Proposals for a New State Constitution for the Northern Territory - Have Your Say, (October 1988)*.

Public Awareness on Constitutional Issues and Statehood

A major aspect of the Committee's work under its Terms of Reference is the promotion of constitutional and Statehood issues.

The Committee has identified a desired procedure for the adoption of a Northern Territory constitution in its Information Paper No. 1: *Options for a Grant of Statehood* that comprises:

- (a) the preparation of a Report and a draft constitution by the Committee for presentation to the Legislative Assembly with options where necessary;
- (b) the draft constitution, following debate in the Legislative Assembly, to be put to a Territory Constitutional Convention established by the Legislative Assembly with broad representation from across the Northern Territory community;
- (c) the draft constitution to be submitted to a referendum of Northern Territory electors for approval; and
- (d) the constitution, as so approved, will then be implemented by or pursuant to a specific grant of powers by the Commonwealth Parliament.

In adopting the above procedure, the Committee has expressed the view, that the new State constitution be prepared by Territorians, with no imposition from outside agencies, be acceptable to the Federal Government and that the views of the States should be sought.

Since 1988, programs in promoting public awareness on these issues are still continuing.

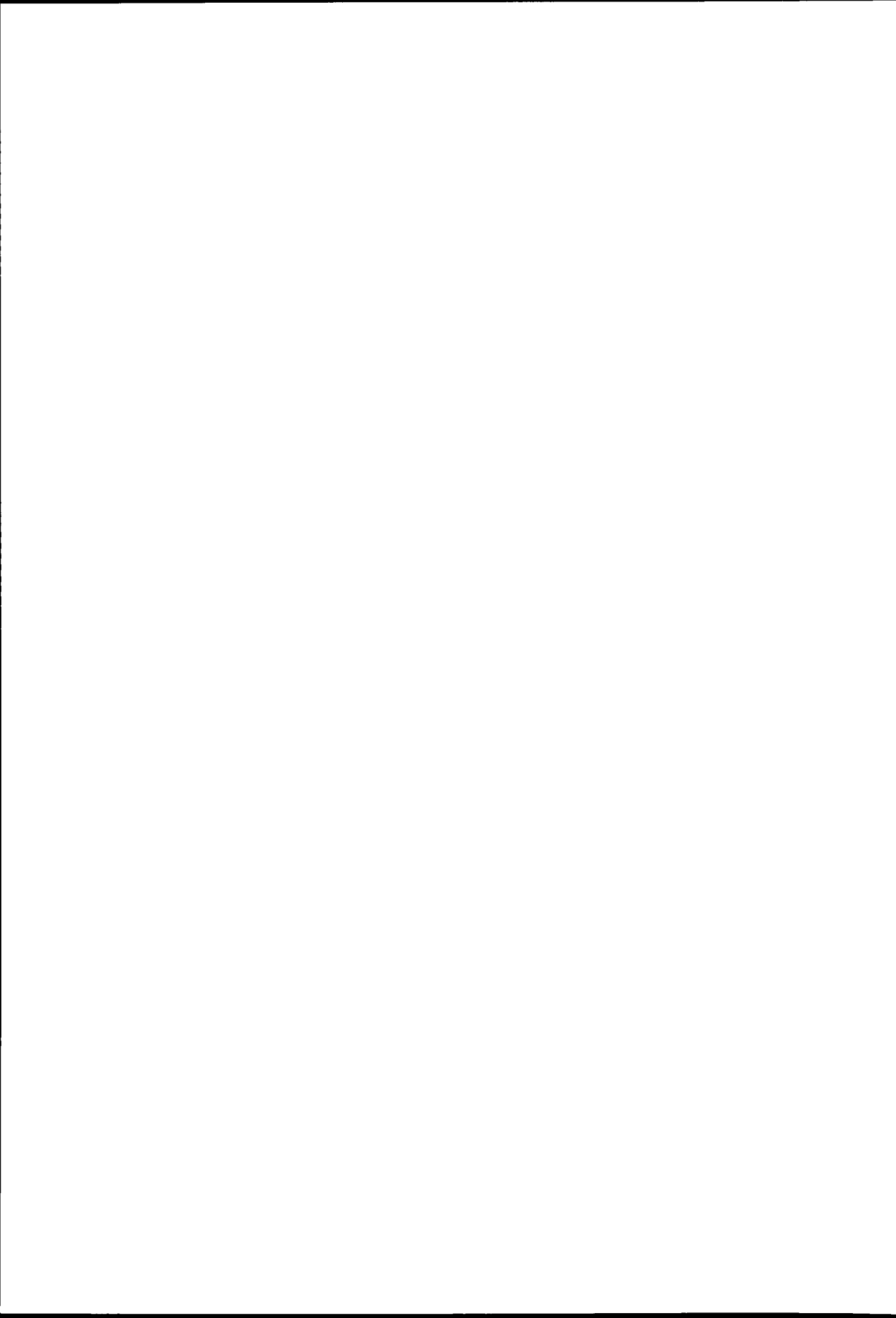
Notable examples are:

- the public hearings and meetings held in major centres throughout the Northern Territory;
- the meetings held with Northern Territory Aboriginal communities during 1989 and 1990; and
- the "*Constitutional Change in the 1990s*" Conference in October 1992, organised by this Committee.

Other avenues that the Committee's has utilised in promoting Northern Territory constitutional issues is through the continuing interaction with the Constitutional Centenary Foundation, the attendance to and participation in major conferences that impinge on the work of this Committee in developing a new Territory or State constitution.

APPENDIX 5

**SUMMARY OF DELIBERATIVE MEETINGS
1993/94**



2. COMMITTEE ACTIVITIES 1993/94

General Review

This year a number of activities conducted by the Committee including the consolidation of evidence received, the preparation of further discussion papers, and the development of strategies in promoting constitutional issues for 1994 and beyond.

Individual members of the Committee continued to undertake promotional and speaking engagements throughout the Northern Territory.

Public Hearings and Meetings

The following Committee meetings and hearings were held:

- . Public Meetings and Hearings: Nil
- . Deliberative Meetings: Five (5) held in Darwin.
- . Briefings: Nil

Appendix 5 summarises the Committee's Deliberative Meetings for 1993/94.

Statements and Motions

The following is a summary of Committee business conducted in the Legislative Assembly during the year.

- Tabling of Discussion Paper No. 6: "Aboriginal Rights and Issues - Options for Entrenchment" (*Parliamentary Record No. 19, 26 August 1993, pp 9464-69*).
- Tabling of Discussion Paper No. 7: "An Australian Republic? - Implications for the Northern Territory" (*Parliamentary Record No. 1, 30 June 1994, pp 495-497*).
- Tabling of the Committee's Annual Report for the year ended 30 June 1993 (*Parliamentary Record No. 24 - The Minutes of Proceedings, 22 February 1994, p 807*).

Papers

The following discussion papers were adopted by the Committee for publication:

- Discussion Paper No. 6: *Aboriginal Rights and Issues- Options for Entrenchment, (July 1993);*
- Discussion Paper No. 7: *An Australian Republic? - Implications for the Northern Territory, (March 1994);*

In promoting its work the Committee has prepared a number of information and discussion papers. The Committee in undertaking this exercise has also prepared a list of proposed discussion and information papers in the following subject areas:

- the rule of law;
- freedom of information;
- codes of conduct and pecuniary interests of elected and appointed officials;
- bill of rights;
- the recognition of local government;

Public Submissions

During the course of its deliberations the Committee has invited public comment and submissions on all the discussion papers it has prepared. Many written and oral submissions have been and are still being received by the Committee.

By the end of the year the Committee has received 115 written submissions.

Appendix 6 provides the list of submissions received as at 30 June 1994.

Strategies for 1994 and Beyond

Committee, members expressed a concern as to where the Committee was heading and whether the development of further discussion papers was an adequate response to its terms of reference.

A strategy paper outlining the following issues was presented to the Committee in December 1993:

- The completion of short term goals relating to the general activity of the Committee, such as, updating evidence received, the preparation of discussion papers, reports, other promotional activities, for example the upcoming Australasian Study of Parliament Group conference.

| | Region | Communities and Centres |
|---|---------------|--|
| Sub-Committee H - | | |
| Mrs Hickey (Deputy Chairman) Mr Mitchell Mr Rioli Mr Baldwin | Alice Springs | Yuendumu Nyrippi Mt Allan Willowra Mt Barkly Anningie |
| | Darwin | Nguiu Pularumpi Milikapiti |
| Sub-Committee I - | | |
| Mr Bailey Mr Mitchell Mr Rioli Mr Baldwin | Alice Springs | Ti Tree Ti Tree Station Pmara Jutunta Napperby Coniston Alcoota Harts Range Amoonguna Santa Teresa |

| | Region | Communities and Centres |
|------------------------------|-------------------------|--|
| Sub-Committee D - | | |
| Mr Hatton (Chairman) | Alice Springs | Papunya |
| Mrs Hickey (Deputy Chairman) | | Haasts Bluff |
| Mr Bailey | | Mt Liebig |
| Mr Mitchell | | Mbunghara Kintore |
| Sub-Committee E - | | |
| Mr Hatton (Chairman) | Barkly | Tennant Creek |
| Mrs Hickey (Deputy Chairman) | | Elliott |
| Mr Mitchell | | Epenarra |
| Mr Rioli | | Banka Banka |
| | | Ali Curung Wilora Neutral Junction |
| Sub-Committee F - | | |
| Mr Hatton (Chairman) | Katherine and Barkly | Katherine |
| Mr Bailey | | Barunga |
| Mr Mitchell | | Beswick |
| Mr Rioli | | Bulman |
| | | Borroloola |
| | | Robinson River |
| | | Ngukurr |
| | | Hodgson Downs |
| | Darwin | Bagot |
| | | Belyuen |
| | | Darwin |
| Sub-Committee G - | | |
| Mrs Hickey (Deputy Chairman) | Darwin | Wadeye |
| Mr Bailey | | Peppimenarti |
| Mr Mitchell | | Daly River |
| Mr Baldwin | | Palumpa |

-
- The identification and formulation of long term strategies such as:
 - ◊ the form, content and format of a draft constitution;
 - ◊ reviewing the desired procedure for the adoption of a Northern Territory constitution and other issues relating to eventual Statehood including a possible timetable - (see Appendix 7); and
 - ◊ the re-establishment of public awareness programs to Northern Territory urban centres, Aboriginal and remote communities.

The Committee considered and adopted the strategy paper and authorised the Executive Officer to provide a further detailed report on how the strategies were to be implemented together with associated costs. In June 1994, the Committee received the report evaluating its work since its inception and identifying the strategies that were to be implemented. By year's end the Committee was still considering the implications.

Chairman's Visit to USA and Canada

In light of the recent High Court decision on *Mabo* and the uncertainty within the wider community in respect of native title over the various forms of titles established under the present land regime, together with the growing aspirations of the Aboriginal people for special acknowledgment of their place within the Australian community the Chairman, in his role as Minister for Aboriginal Development, Lands, Housing and Local Government, visited Canada and the United States of America. The purpose of the visit was examine the following issues in order to understand and assess the merits or otherwise in applying them in a Northern Territory perspective:

- land title systems and regimes;
- political organisations and structures;
- tribal court systems;
- relationship between the states/provincial and federal governments;
- the processes relating to self-determination;
- economic development of Aboriginal land;
- Aboriginal land claim and treaty processes; and
- constitutional development and jurisdiction.

Visit to Papua New Guinea

During July/August 1993 the Member for Arnhem Mr Wes Lanhupuy, MLA attended and participated in a major conference relating to the development and recognition of customary law. Whilst in Papua New Guinea Mr Lanhupuy met with politicians and government officials on issues relating to codes of conduct for public and constitutional office holders, the administration of justice and customary law including an overview of the village court system, land titles, customary land usage and dispute resolution.

3. ADMINISTRATION AND STAFFING

Staffing

The Committee has support of a full-time Secretary and Administrative Assistant. Staff support is held at a minimum level. However, the Committee, under its terms of reference, can co-opt specialist resources as required.

The Department of the Legislative Assembly provides other support facilities to the Committee such as *Hansard*, computer support and backup and general administration in the personnel and financial areas.

Staff as at 30 June 1994



**Secretary:
Mr Rick Gray**



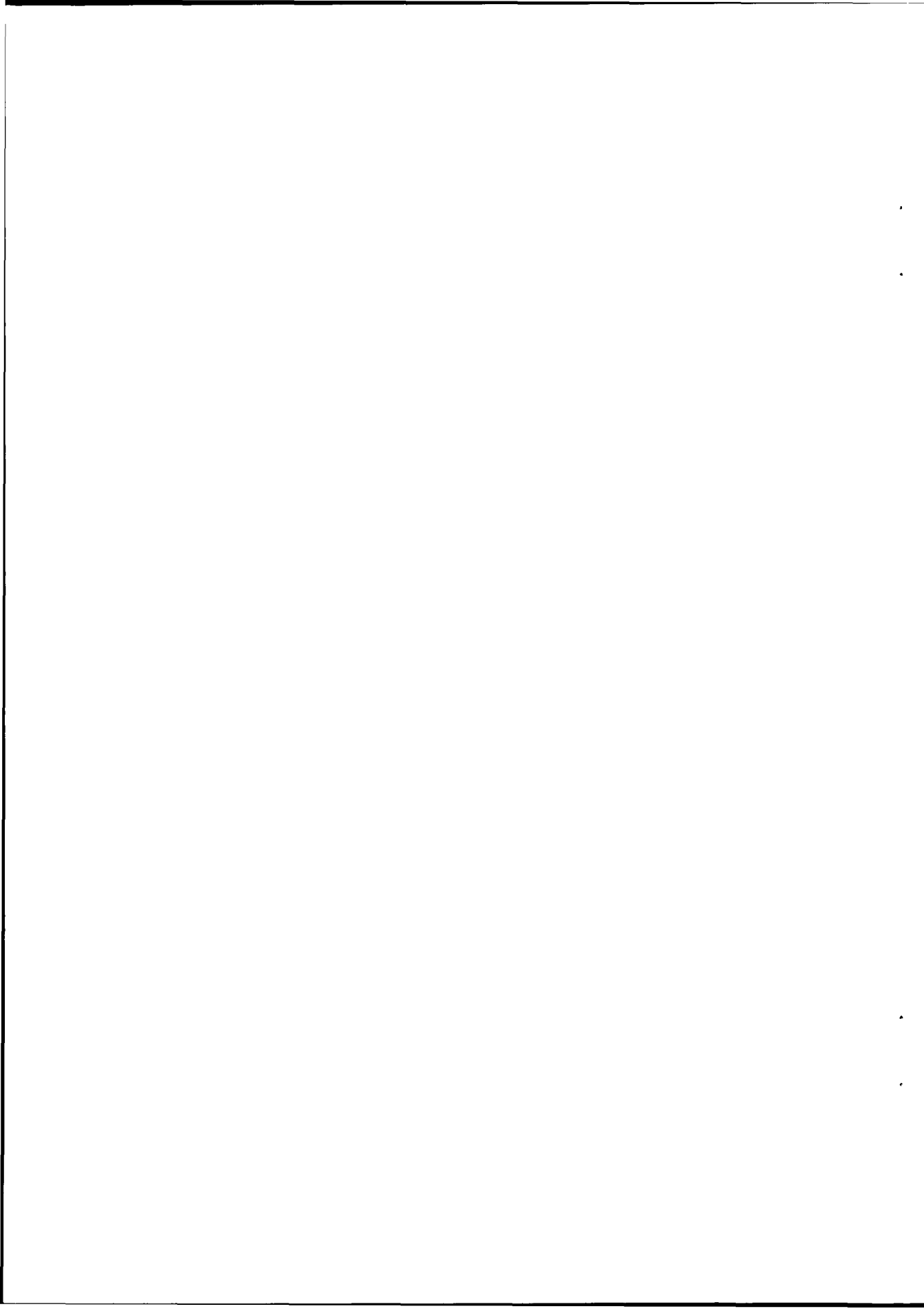
**Legal Advisor to the Committee:
Mr Graham Nicholson
Senior Crown Counsel
Department of Law**



**Administrative Assistant:
Mrs Yoga Harichandran**

SUB-COMMITTEE MEMBERSHIP

| | Region | Communities and Centres |
|------------------------------|-----------------------------|----------------------------|
| Sub-Committee A - | | |
| Mr Hatton (Chairman) | Alice Springs and Barkly | Alice Springs |
| Mrs Hickey (Deputy Chairman) | | Ammaroo |
| Mr Bailey | Darwin | Utopia |
| Mr Baldwin | | Lake Nash |
| | | Irrultja |
| | | Murray Downs |
| | | Oenpelli |
| | | Jabiru |
| | | Maningrida |
| | | Minjilang |
| | | Warruwi |
| | | |
| Sub-Committee B - | | |
| Mr Hatton (Chairman) | Katherine | Dagaragu |
| Mr Bailey | East Arnhem | Lajamanu |
| Mr Rioli | | Kalkiringi |
| Mr Baldwin | | Nhulunbuy |
| | | Yirrkala |
| | | Galiwinku |
| | | Gapuwiyak |
| | | Milingimbi |
| | | Ramingining |
| | | Alyangula |
| Sub-Committee C - | | |
| Mr Hatton (Chairman) | Alice Springs | Yulara |
| Mrs Hickey (Deputy Chairman) | | Mutitjulu |
| Mr Rioli | | Docker River |
| Mr Baldwin | | Angus Downs |
| | | Imanpa |
| | | Finke |
| | Hermannsburg | |
| | Areyonga | |
| | Jay Creek | |
| | Wallace Rockhole | |



Committee Expenditure

The Committee's 1993/94 budget allocation for administration and salaries was \$133,000. Total administration and salary costs for the year amounted to \$140,297.

SALARY AND ADMINISTRATIVE EXPENSES: 1993/94

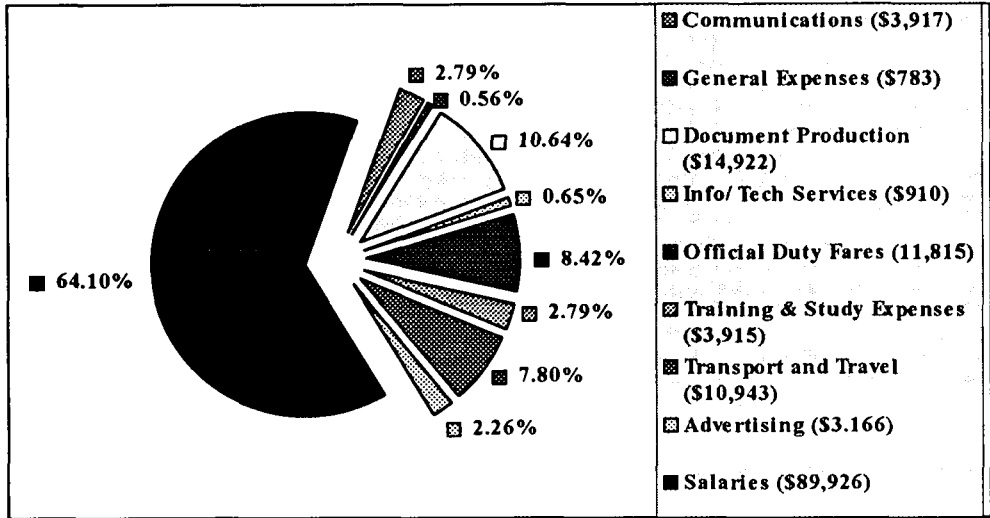


Figure 1: Committee Item Expenditure by Category of Cost

SALARY AND ADMINISTRATIVE EXPENSES: 1993/94

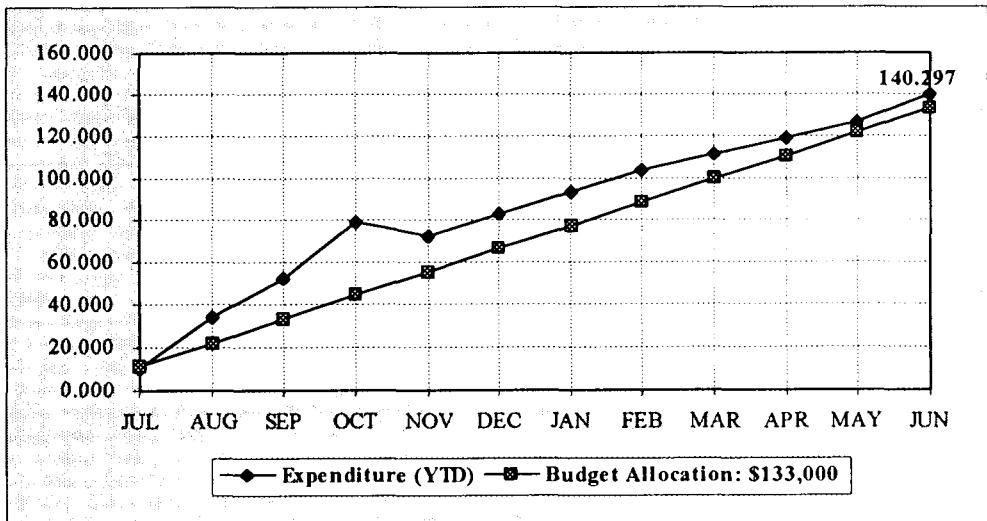
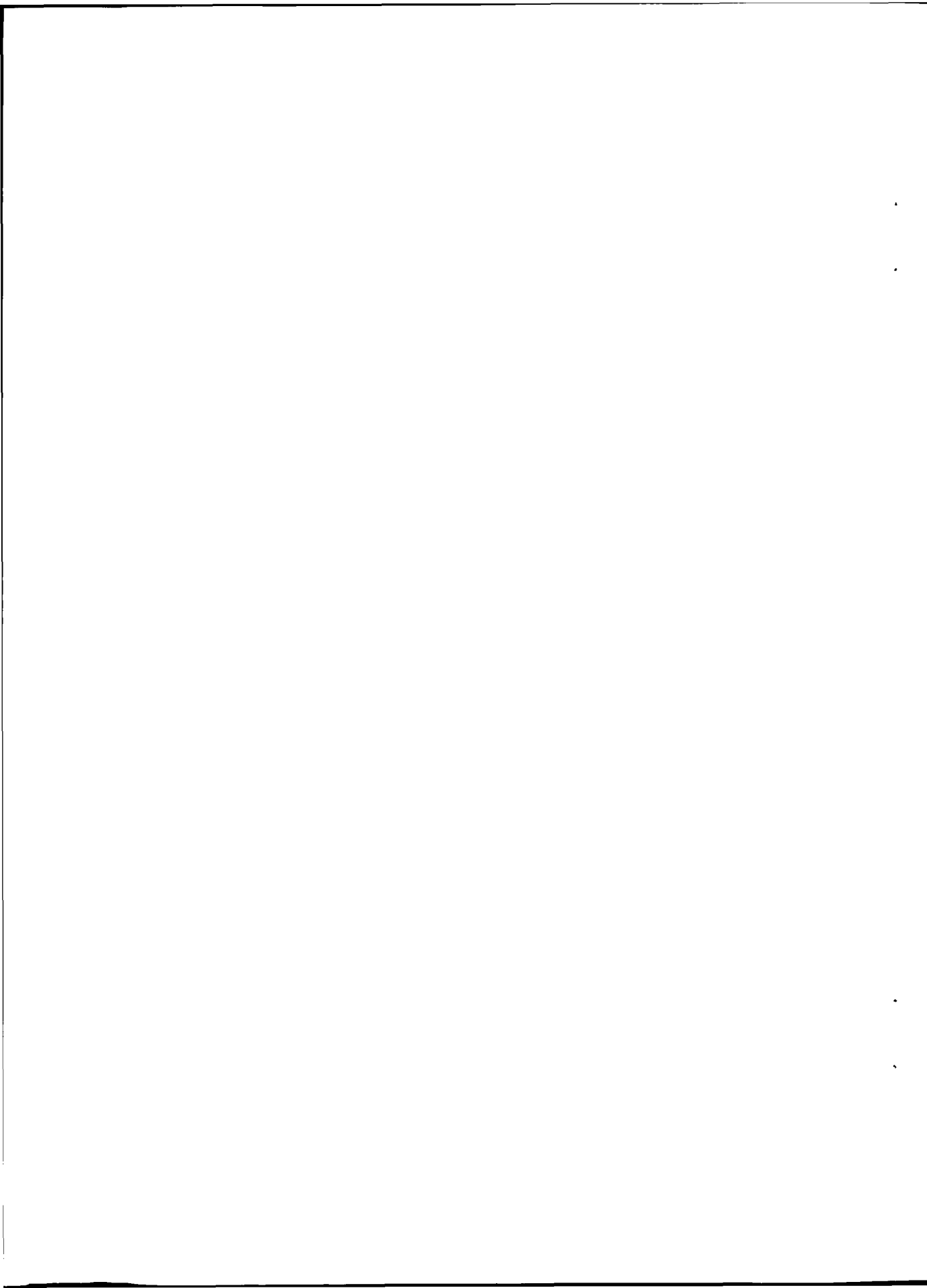


Figure 2: Monthly Expenditure Chart



APPENDIX 4

**SUB-COMMITTEE MEMBERSHIP
AS AT 30 JUNE 1994**

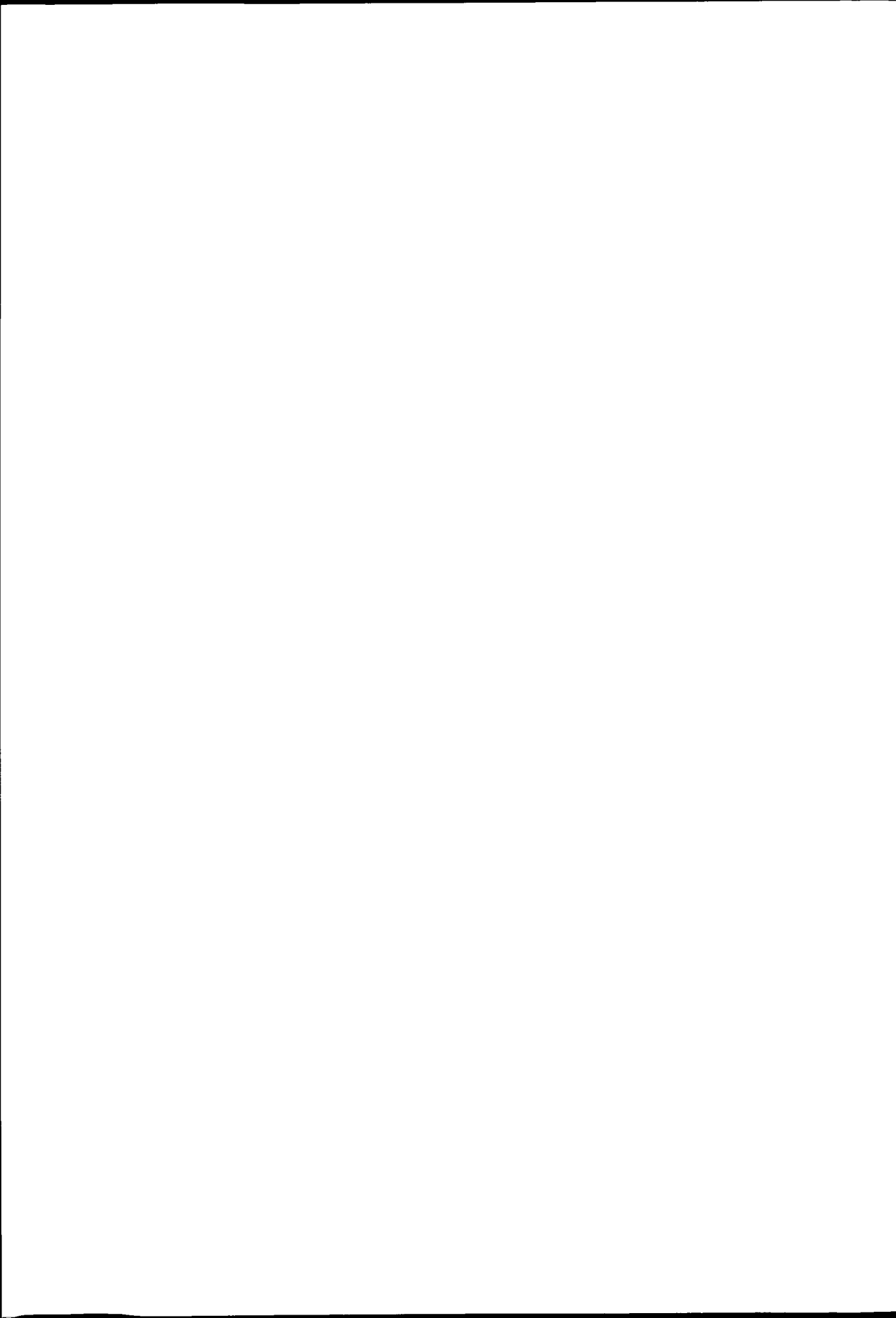
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- (d) such other matters relating to any future establishment of an Australian Republic, and any grant of Statehood to the Northern Territory within that Australian Republic, as the Sessional Committee considers to be relevant to the foregoing.
2. DIRECT that this reference shall be dealt with by the Sessional Committee on Constitutional Development in the same manner, and in accordance with the same provisions, as are contained in the existing Terms of Reference of the Sessional Committee.

Dated the 9th day of MAY 1993.

Signed:

Chief Minister for the Northern Territory of Australia.

APPENDICES



TERMS OF REFERENCE ON REPUBLICANISM

WHEREAS Australia is presently established under a monarchical system with the Queen of Australia as the Head of Government;

AND WHEREAS there is a significant debate on the question of whether Australia should be a Republic and it is possible that Australia may become a Republic sometime in the future;

AND WHEREAS the Northern Territory may at some time in the future become a new State within the Australian federation;

AND WHEREAS the Sessional Committee on Constitutional Development is presently considering matters pertaining to a new State constitution for the Northern Territory;

AND WHEREAS it is highly desirable that Territorians be informed of, and have the opportunity to comment on, the implications for the Northern Territory, both as a Self-governing territory and as a new State, of any future establishment of an Australian Republic;

AND WHEREAS it is essential that the movement towards further constitutional development of the Northern Territory to Statehood should not be deferred as a consequence of the Republican debate;

AND WHEREAS under its existing Terms of Reference as contained in the Resolution of the Legislative Assembly dated 4 December 1990, the Sessional Committee on Constitutional Development may inquire into, report and make recommendations to the Legislative Assembly on such constitutional and legal matters as are referred to it by relevant Ministers or by a resolution of the Legislative Assembly;

NOW THEREFORE I, MARSHALL BRUCE PERRON, the Chief Minister for the Northern Territory of Australia,

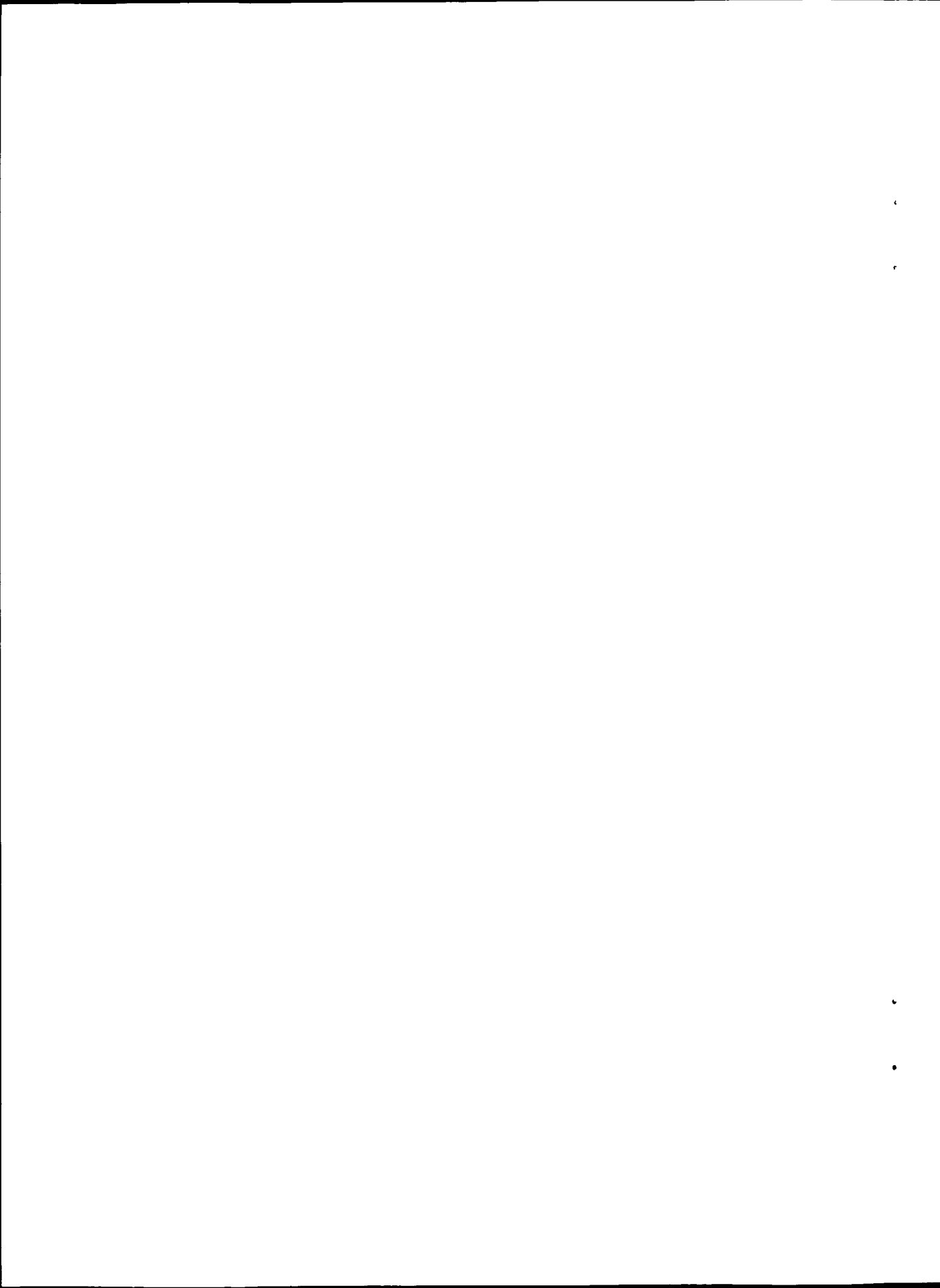
1. HEREBY make a reference to the Sessional Committee on Constitutional Development on the implications for the Northern Territory, both as a Self-governing territory and as a new State, of any future establishment of an Australian Republic;

And without limiting the generality of these terms of reference, the Sessional Committee shall consider the following specific issues:-

- (a) the relevance to the Northern Territory of the forms of government that may be brought into existence in any Australian Republic, both at a national and at a State level;
- (b) the importance of having consistency between Northern Territory constitutional arrangements and possible future Commonwealth/State constitutional arrangements in the event of the establishment of an Australian Republic;
- (c) the options and matters that should be considered in the preparation of a new State constitution for the Northern Territory in the event of the establishment of an Australian Republic; and

APPENDIX 1

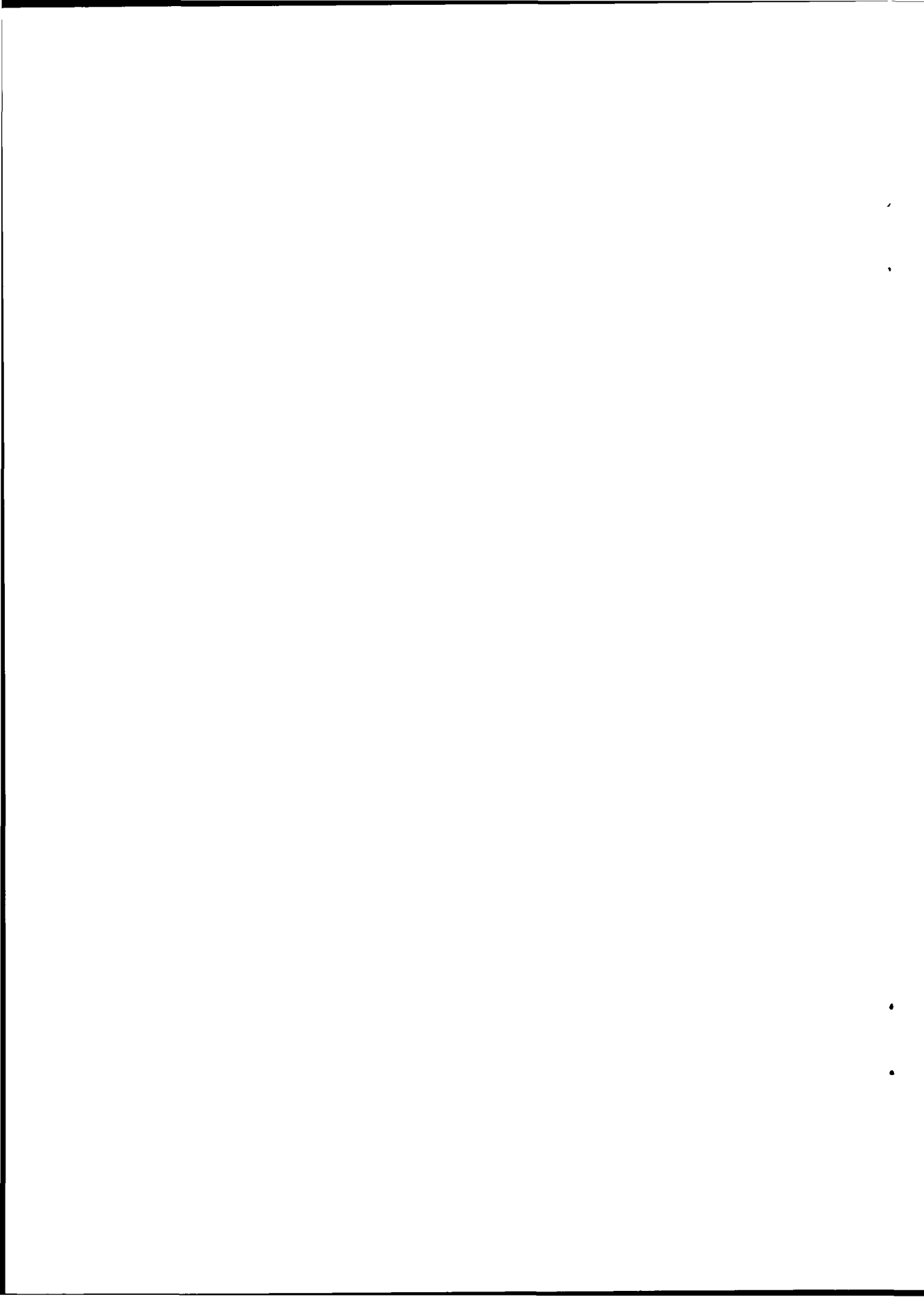
FORMER AND CURRENT COMMITTEE MEMBERSHIP



APPENDIX 3

**ADDITIONAL
TERMS OF REFERENCE ON REPUBLICANISM**

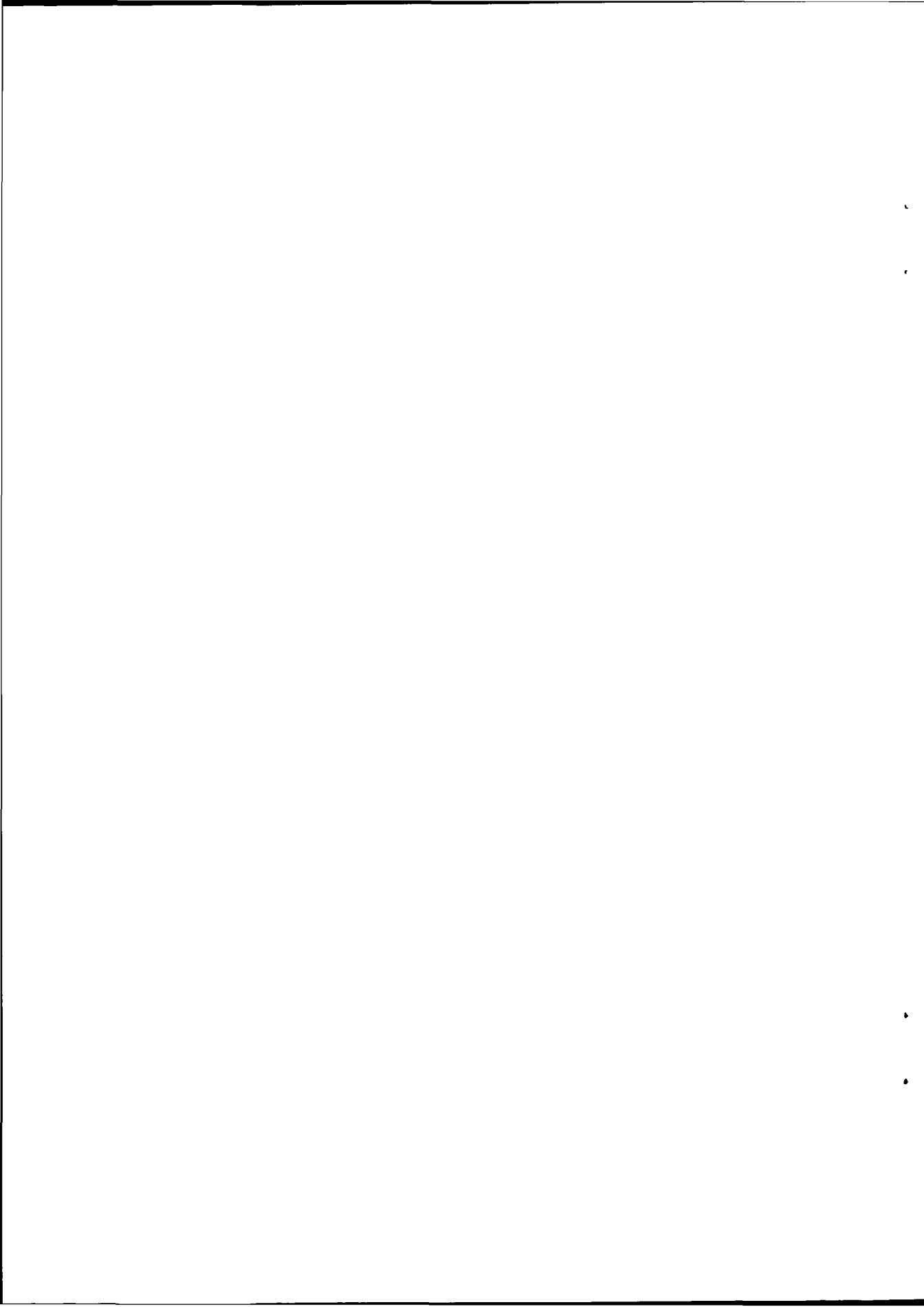
**referred to the Committee by the Chief Minister
31 May 1993**



FORMER AND CURRENT COMMITTEE MEMBERSHIP

| Member | Fourth Assembly | Fifth Assembly | Sixth Assembly | Seventh Assembly |
|-------------------------------|------------------------|-----------------------|-----------------------|-------------------------|
| Mr J D Bailey, MLA | | 10/10/89 - 5/10/90 | 4/12/90 - 17/5/94 | Reappointed - 27/6/94 |
| Mr T D Baldwin, MLA | | | | Appointed - 27/6/94 |
| Mr G R Cartwright, MLA | | | 4/12/90 - 17/5/94 | |
| Mr B Collins, MLA | 28/8/85 - 19/6/86 | | | |
| | 20/8/86 - 7/3/87 | | | |
| Mr D F Dale, MLA [#] | 28/8/85 - 7/3/87 | | | |
| Mr B R Ede, MLA | 17/6/86 - 7/3/87 | 28/4/87 - 5/10/90 | | |
| Mr C C Firmin, MLA | | 24/8/88 - 5/10/90 | | |
| Mr T Harris, MLA | | 17/5/88 - 24/8/88 | | |
| Hon S P Hatton, MLA | 15/5/86 - 7/3/87 | 28/4/87 - 14/7/88 | 4/12/90 - 17/5/94 | Reappointed - 27/6/94 |
| | | 24/8/88 - 5/10/90 | | |
| Mrs M A Hickey, MLA | | | | Appointed - 27/6/94 |
| Mr W W Lanhupuy, MLA | 28/8/85 - 7/3/87 | 28/4/87 - 5/10/90 | 4/12/90 - 7/5/94 | |
| Mr D M Leo, MLA | | 24/8/88 - 10/10/89 | | |
| Mr T R McCarthy, MLA | | | 4/12/90 - 7/5/94 | |
| Mr. P A Mitchell, MLA | | | | Appointed - 27/6/94 |
| Mr M J Palmer, MLA | 28/8/85 - 7/3/87 | 28/4/87 - 17/5/88 | | |
| Hon M B Perron, MLA | | 14/7/88 - 24/8/88 | | |
| Mr. M J Rioli, MLA | | | | Appointed - 27/6/94 |
| Mr J M Robertson, MLA | 28/8/85 - 26/3/86 | | | |
| Mr R A Setter, MLA | | 28/4/87 - 5/10/90 | 4/12/90 - 17/5/94 | |
| Mr T E Smith, MLA | 28/8/85 - 20/8/86 | 27/4/87 - 24/8/88 | | |
| Mr I L Tuxworth, MLA | 26/3/86 - 15/5/86 | | | |
| | 17/6/86 - 7/3/87 | | | |

[#] (deceased)

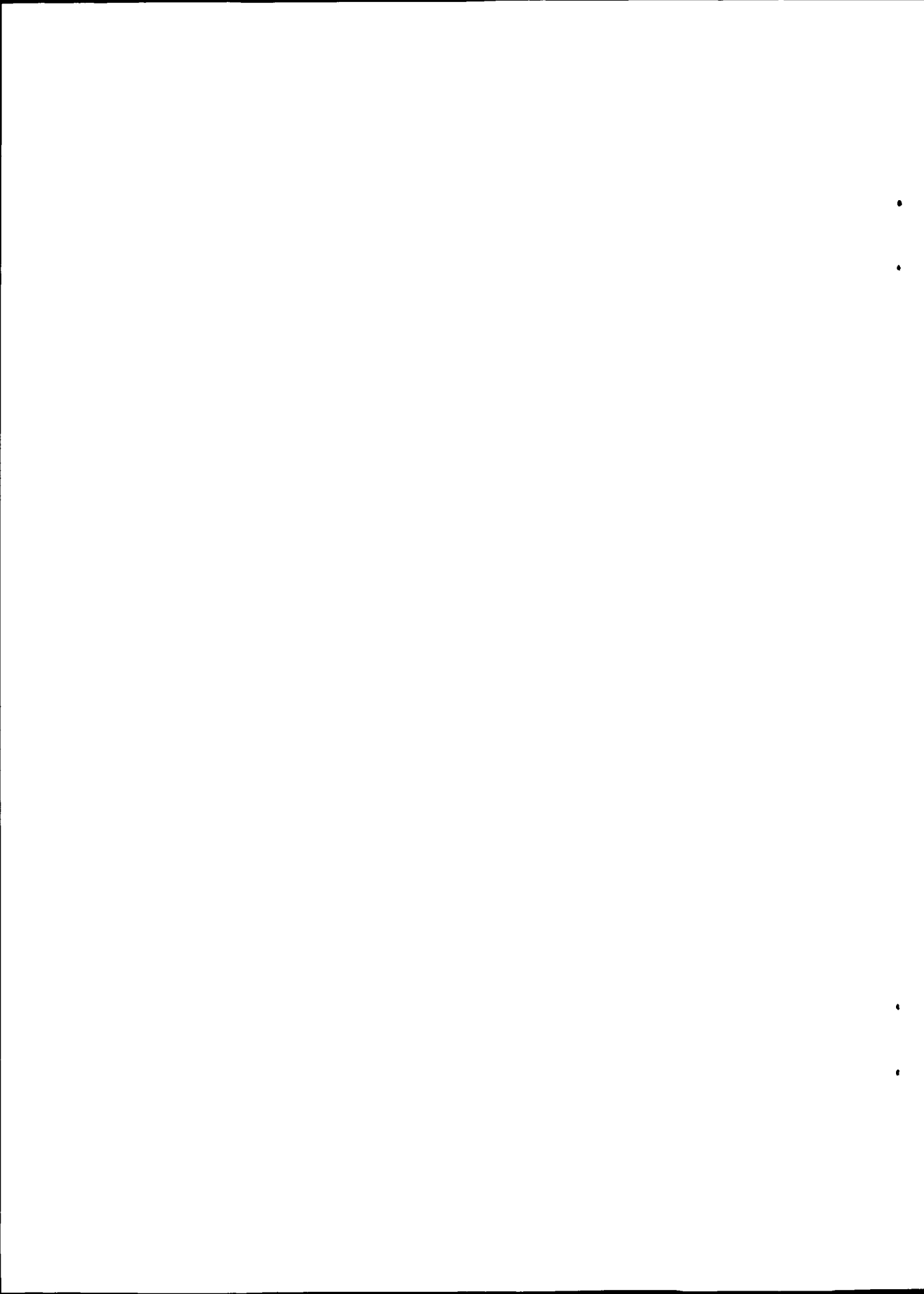


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- (14) members of the public and representatives of the news media may attend and report any public session of the Committee, unless otherwise ordered by the Committee;
 - (15) the Committee may authorise the televising of public hearings of the Committee under such rules as the Speaker considers appropriate;
 - (16) the Committee shall be provided with all necessary staff, facilities and resources and shall be empowered, with the approval of the Speaker, to appoint persons with specialist knowledge for the purposes of the Committee;
 - (17) nothing in these Terms of Reference or in the Standing Orders shall be taken to limit or control the duties, powers or functions of any Minister of the Territory who is also a Member of the Sessional Committee;
 - (18) the Committee be empowered to consider the minutes of proceedings, evidence taken and records of similar committees established in the previous Assembly; and
 - (19) the foregoing provisions of this Resolution, so far as they are inconsistent with Standing Orders, have effect notwithstanding anything contained in the Standing Orders.

-
- (3) unless otherwise ordered, the Committee consist of Mr Bailey, Mr Baldwin, Mr Hatton, Mrs Hickey, Mr Mitchell and Mr Rioli;
 - (4) the Chief Minister and the Leader of the Opposition, although not Members of the Committee, may attend all meetings of the Committee; may question witnesses; and may participate in the deliberations of the Committee, but shall not vote;
 - (5) the Chairman of the Committee may, from time to time, appoint a Member of the Committee to be the Deputy Chairman of the Committee and that the Member so appointed shall act as Chairman of the Committee at any time when there is no Chairman or when the Chairman is not present at a meeting of the Committee;
 - (6) in the event of an equality of voting, the Chairman, or the Deputy Chairman when acting as Chairman, shall have a casting vote;
 - (7) the Committee have power to appoint subcommittees and to refer to any such subcommittee any matter which the Committee is empowered to examine;
 - (8) four Members of the Committee constitute a quorum of the Committee and two members of a subcommittee constitute a quorum of the subcommittee;
 - (9) the Committee or any subcommittee have power to send for persons, papers and records, to adjourn from place to place, to meet and transact business in public or private session and to sit during any adjournment of the Assembly;
 - (10) the Committee shall be empowered to print from day to day such papers and evidence as may be ordered by it and, unless otherwise ordered by the Committee, a daily Hansard shall be published of such proceedings of the Committee as take place in public;
 - (11) the Committee have leave to report from time to time and any Member of the Committee have power to add a protest or dissent to any report;
 - (12) the Committee report to the Assembly as soon as possible after 30 June each year on its activities during the preceding financial year;
 - (13) unless otherwise ordered by the Committee, all documents received by the Committee during its inquiry shall remain in the custody of the Assembly provided that, on the application of a department or person, any document, if not likely to be further required, may, in the Speaker's discretion, be returned to the department or person from whom it was obtained;

APPENDIX 2

TERMS OF REFERENCE



TERMS OF REFERENCE

(AS CONTAINED IN THE RESOLUTION OF THE LEGISLATIVE ASSEMBLY
27 JUNE 1994)

THAT, WHEREAS this Assembly is of the opinion that when the Northern Territory of Australia becomes a new State it should do so as a member of the Federation in terms resulting in equality with the other States with its people having the same constitutional rights, privileges, entitlements and responsibilities as the people of the existing States;

AND WHEREAS insofar as it is constitutionally possible the equality should apply as on the date of the grant of statehood to the new State;

AND WHEREAS it is necessary to draft a new State constitution;

- (1) during the present session of this Assembly - a committee to be known as the Sessional Committee on Constitutional Development, be established to inquire into, report and make recommendations to the Legislative Assembly on:
 - (a) a constitution for the new State and the principles upon which it should be drawn, including:
 - (i) legislative powers;
 - (ii) executive powers;
 - (iii) judicial powers; and
 - (iv) the method to be adopted to have a draft new State constitution approved by or on behalf of the people of the Northern Territory;
 - (b) the issues, conditions and procedures pertinent to the entry of the Northern Territory into the Federation as a new State;
 - (c) such other constitutional and legal matters as may be referred to it by:
 - (i) relevant ministers, or
 - (ii) resolution of the Assembly.
- (2) the Committee undertake a role in promoting the awareness of constitutional issues to the Northern Territory and Australian populations;