

JURNKURAKURR — 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:

Mr Pat BURKE

Mr John HAVNEN

Ms Betty FINLAY

Ms Shirley LEWIS

NOTE: This is a verbatim transcript that has been tape-checked. However due to poor recording or many people speaking at the same time, some of the recordings were inaudible and unable to be transcribed.

ISSUED: 27 July 1989.

Mr HATTON: If I may speak first, my name is Steve Hatton. I am the chairman of this committee of the Northern Territory parliament. We have just sent out copies of this book here. Our committee is called a Select Committee on Constitutional Development. At the back of this book, you will see pictures of the people on our committee. There are 6 people on our committee. There are 3 people from the government side, the CLP side. They are myself, Mr Rick Setter, the member for Jingili, and another fellow, Colin Firmin, the member for Ludmilla in Darwin. There are 3 people also from the Labor Party, the opposition side. There is Brian Ede, the member for Stuart who is the deputy chairman of this committee, Mr Wesley Lanhupuy, the member for Arnhem, and Mr Danny Leo, the member for Nhulunbuy. There are equal numbers of Labor Party and CLP members on this committee.

The reason for that is that this committee is different to the way normal parliaments and the politicians have been working. Most of the time, we are always arguing with each other about what we are going to do and what we are not going to do, what we think should be done and what we think should not be done. We are arguing all the time. But this time, on this job, both the Labor Party and the CLP think this job is too important for that and it is important that we work together to do something for all the people in the Northern Territory and find something that is going to be good for the future of the Northern Territory.

You have heard a lot of talk about the Northern Territory perhaps becoming a state. Some people think that statehood is good and some people are not happy with it. Some people think it is bad. There are different views. We are not going to ask you whether you think we should be a state or not a state. We are not ready to ask that question of people yet because, if we become a state, what are we going to have? What do you think this Northern Territory is going to be like? How do you think we should set the rules for the Northern Territory for the future, for our children and for our grandchildren? How do you write those rules? Until we have done that, you cannot even think about statehood, can you? So, the first job we have to do is write a special law, make a special law, that says how we want this Northern Territory to go in the future. That law we call a constitution.

A constitution is not a law made by the government. It is a law that is made by the people. It is the people who make this law, and that law becomes the boss over the top of the government, the boss over the top of the courts, the boss over everything. It is a strong law and it is the people's law. It is a law that cannot be mucked around with by the government. It is there, and it stays there the same unless all the people want to change it. Only the people can change it. The government cannot change that law.

Every state, and the federal government, has a constitution. New South Wales has one, Queensland has one, Western Australia has one, South Australia has one, Victoria has one, Tasmania has one and the Canberra government has one. They each have a constitution that tells them what they can do and tells them what they cannot do. Some were made a long time ago. The ones in the states were made more than 100 years ago and, when they made them, they did not go around and ask the people what should go into their constitution. They certainly did not go and ask the Aboriginal people what the Aboriginal people thought should go in that constitution and, when the federal constitution was made, they did not ask the Aboriginal people what should go into that.

This is the first time for nearly 100 years that we are talking about writing a constitution - one for the Northern Territory - and this is the way the people can make the rules, make the law, the major law, the top law. The law that says what the government can do and the law that says what the government cannot do. It says how you make up the parliament, how you elect the people into the parliament and who has a right to vote.

We have all got things that are really important to us. They are so important to us that we do not want the government to be able to muck around with them. Now it might be your land rights. It might be your sacred sites, your language, your culture and your law. It might be your right to vote or your right to stand for parliament. It may be your right to speak, the right to have your own religion so no one can take that away from you. There are things that are so important that no government, no matter who they are, should have the right to muck around with them, they are rights that must be there always. If you put them inside a constitution, then the government cannot touch them. Okay? That is how a constitution works. If they want to change it later, after that, they have to go back and ask the people. If the people say: 'No, you cannot change that', then the government cannot touch it.

This has never happened before in the Northern Territory. We have never had that right. The people have never had that right. All the things we have here, all our rights - even our right to have a government, our right to vote, your land rights - were all given to us by governments. Now governments change. You know how white man's law works. Governments change and people change their minds. They are going this way and they turn around and they go that way. Always remember, what the government gives you the government can take away. But, if the people give it to you in a constitution, the government cannot take it away. That is where a constitution becomes the people's law. It goes on and on and on. In many ways, it is like Aboriginal law. What is there is there all the time. It does not change. It stays there and it is the foundation for your life. It is the same thing with a constitution in the white man's way. It is the rock, the ground on which you stand and it says: this stays the same. Okay governments muck around up there, but they cannot change that. What you put in this constitution stays.

That is what we are starting to work on now. We are going all around the Northern Territory telling people that we need to start work on this job in the Northern Territory, to start working together all over the Territory to write a law like that, a law that is going to be the law from the people, setting the rules over the top of government. It is a law where the people say how they want this Northern Territory to work - not the politicians in Darwin, not the politicians in Canberra - the people in the Northern Territory say that. That is what this law will do.

You cannot let politicians write it and you cannot let the lawyers write it. The people have got to write this. It has got to be the people's law. It has to come from the people. It has to be their law and say: 'That is mine, government. You don't touch that'. And the only way we can do that is if you get involved. You have to talk about this amongst yourselves. Think about

it. Think about what is important and what you think must be in there. You have your say to make sure that it gets in there. The way we are going to go about doing this job, to make sure that you have a chance to have your say, is this: we are going around now and we are talking to people like this and saying we are going to do this job. We are going to talk to you about what sort of things you can put in a constitution and how to go about it. Then, we are going to go away and say we want you to sit down and think about it amongst yourselves. If there are things you are not sure of and you would like more information and you would like us to come back and talk about bits and pieces of it to help you in your thinking, we will do that.

We want you to think amongst yourselves about what sort of laws you think we should have here for the Northern Territory, what sort of way we want this Territory to go in the future. Then, when you have worked out what you want, you come and you tell us what you want - and not just you, but the people down at Kintore, those in Nhulunbuy, in Darwin, in Alice Springs, at Utopia and Finke and all over the Territory. We are going all over the place to talk to people and say: you come and tell us. When we get all the ideas from all over the Northern Territory, we are going to try and write that up, but you cannot trust us to do it all by ourselves.

So, we write that up, and then we want to form a big committee of representative people from all over the Northern Territory. Those people will have to represent all the different people of the Northern Territory, and they will come together in meetings to talk about what we did and have a look at. Then they will say whether it is good, or bad or needs to be changed or whatever. That meeting is called a constitutional convention. They will keep working and working through and, when they work out what they think the people want, they will come back and say: 'Okay, this is what we reckon the people want'. Then we are going to send it out to all the people to vote 'yes' or 'no'. If the people are not happy and they vote 'no', we go back and we start again, and we keep working until, in the end, the people say: 'Yes, that is what we want'.

So, in the end, it will be your law, your law that you make over the top of the government and your law that you make for your children, for your grandchildren and for their grandchildren, for 100 years time. You will have a law there to make the Northern Territory go the way we think it should go so all the people of the Territory can live together with respect and learn to live and work together and grow together, and get over a lot of this fighting and nonsense that has been going on in the Territory.

Maybe, if we do this job properly, we can leave behind us for our children a place that they are proud of and that we are proud of, a good place for all the young people to grow up in. If we walk away from this job, and we do not do this, and we let the mucking around go on the way it is going on now, and we do not make these decisions and take control of our own life, our grandchildren will look back and say: 'Why didn't they do that job? When they had the chance, why didn't they work to make this place good for us'? If we do it, and if we do it well, then they can look back and say: 'Our grandparents did a good job for us. They left a good place for us to live in'.

Mr BURKE: Steve, when you were Chief Minister, you didn't have too much to say about Aborigines.

Mr HATTON: Oh, that is not true.

Mr BURKE: I buy that Darwin paper, that Sunday Territorian. I read your column every week. You did not have too much to say about Aborigines.

Mr HATTON: In that column, no. But Johnny Havnen and the CLC and the other organisations will know that I spent a lot of time going around talking to the Aboriginal organisations. Down here, I spoke with Jurnkurakurr and Julalikari and I have spoken with the CLC time and time again.

Mr BURKE: That was just with representatives, not for the people.

Mr HATTON: Yes. And I have met with the people all over the place around the Territory in the bush, when I was Chief Minister. I did. Did I?

A person: Yes.

Mr HATTON: I really did. I put a lot of time and effort into it.

Mr BURKE: This is John-John. John-John hasn't got too much to say but ...

Mr HAVNEN: He met with our council about 4 or 5 times when he was Chief Minister.

Mr BURKE: He didn't see the people. He just seen a couple of people.

Mr HAVNEN: He met with the whole council. It is not possible to sort of get out and see every individual. When Mr Hatton was Minister for Lands, he came along to a community meeting also.

Mr BURKE: That was for Lands, not when he was Chief Minister.

Mr HAVNEN: And when he was Chief Minister also, he came and met with the council.

Mr BURKE: It is the first time we have seen his face.

Mr HATTON: Well, I have been in and around. I have not stopped and talked at community meetings like this, in all the communities in the Territory, and I am still finding new places in the Territory I am visiting for the first time. I am meeting new white people as well as Aboriginal people, even now. But I am doing it, and I have been doing it ever since I got elected in 1983. I have only been there 5 years, since I first got elected.

Mr BURKE: What did you get kicked out for then?

Mr HATTON: I don't know. Ask my colleagues. They wanted someone else. Why do you vote a new president in sometimes? You want a new one. That is the way it goes in politics.

But we are here now - and not just the government, not just the CLP, it is the parliament, both sides - to say: 'Hey, we want to make sure that this job is done properly.'

Mr BURKE: That constitution, is that for the Territory in general or are you going to make it a state?

Mr HATTON: You cannot even think about being a state until you have got a constitution. You cannot even think about it.

Mr BURKE: If you are thinking about a constitution, you are thinking about a state.

Mr HATTON: Oh yes, I am thinking about a state. I ask you to understand this. Unless Australia changes, and they get rid of all the states in Australia, one day - whether it is in 1 year's time, 5 years, 10 years or 20 years, the Northern Territory will become a state.

Mr BURKE: How is the Territory going to support itself?

Mr HATTON: Well, okay. I am really glad you asked that. It will give me a good chance to explain something that confuses a lot of people. We are supporting ourselves now as if we were a state. I will tell you how and I will tell you why.

Mr BURKE: You are not talking uranium.

Mr HATTON: No, no, I am not. It has been government, just government - taxes and all that. Let me explain to you. There are all sorts of things. Let me talk first. You know how the money comes to the state?

Mr BURKE: From Canberra.

Mr HATTON: Not all of it. Even for New South Wales, some comes from Canberra. Do you know that? Over half the money goes to the states from Canberra, because Canberra collects the taxes on behalf of the states.

Mr BURKE: But what percentage do we get from Canberra?

Mr HATTON: We get about 70% of our money from Canberra, but ...

Mr BURKE: If you make it a state?

Mr HATTON: The same.

Mr BURKE: You cut it back again.

Mr HATTON: No way. I will tell you why. It is because, right now, the money we get from Canberra is calculated by the same mob that calculates the money for the states, that is the Grants Commission. It is done at the same time as they do it for the states. They do it using the same formulas, the same rules, as they do for the states and it comes out of the same pot of money. We are not getting any special deals because we are a territory.

Mr BURKE: No, no. New South Wales, Victoria they have a bigger population. They are paying their taxes. We have a small population in the Territory and we are paying less taxes.

Mr HATTON: We are paying the same taxes as they are down there. New South Wales gets about 60% of its money from Canberra.

Mr BURKE: Through their taxes!

Mr HATTON: No, from Canberra, the same as we get money from Canberra. They get 60% of their money, and their taxes are the same sort of taxes as we are charging here. We are set up the same way. It is all nonsense this thing about how the federal government is funding us differently to the rest of the country. It is not true any more. It used to be, 3 or 4 years ago. It is not true since last year. It has all changed, because all the money went out of the Territory and that brought us back to the same as a state.

Mr BURKE: What money is going out of the Territory?

Mr HATTON: The money that they stopped giving to us in the last 3 years. That brought us back to the same as the states.

Mr BURKE: Only thing we are sending out is cattle, that is all.

Mr HATTON: Oh cattle! Hey, as Territorians, I have got to tell you this. As Territorians ...

Mr BURKE: You are not a real Territorian.

Mr HATTON: Huh?

Mr BURKE: You are not a real Territorian.

Mr HATTON: I feel a Territorian. This is my home, and I regard myself as a Territorian. It was not my fault I was not born here, right. But I chose it as my home.

Northern Territory people, per head of population, are earning wealth for Australia 3 times as much, per head of population, as the rest of Australia. We are earning 3 times as much, \$4500 per head of population, in income for Australia for exports compared to the rest of Australia, 3 times as much.

Mr BURKE: With what?

Mr HATTON: That money is holding up and supporting the standard of living of people in New South Wales and Victoria who are importing stuff. They are spending Australia's money, importing stuff ...

Mr BURKE: And we are (inaudible) 3 times as much ...

Mr HATTON: ... and not exporting as much. In fact, we are supporting New South Wales and Victoria and their standard of living by the work we are doing here in the Territory with our mining, our cattle, our fishing and our tourism. That is the truth. As a Territorian, you should never feel ashamed, as if they are supporting us. In fact, we are holding up their standard of living. Don't let them knock you.

That is the sort of job we are trying to do. All those issues about the money, about the national parks, about the mining and about the Land Rights Act, all that sort of stuff, they are questions that maybe come up in statehood. You cannot even think about that until you say what you want this Northern Territory to be like. Here is your chance, your real chance, to have a say in that. The job has to be done. It really is important for you to get to talk, to think and to stand up and speak and have your say. Don't let somebody else speak for you. Don't say: 'Oh, it is too hard. Let somebody else do it'. In 3 or 4 years time, when they have done most of the job, it is too late then for you come back and say: 'Hey, why didn't you talk

to me?" We are talking to you now, before we even start the job.

Mr BURKE: You have your constitutional members?

Mr HATTON: Sorry?

Mr BURKE: What are you going to have? Half Aboriginal and half European?

Mr HATTON: That is up to the people to say. That is where you write the rules for those sort of things. You do not ask me. I am asking you, the people, and the other people in this town, the other people in Alice and the people all over the Territory to think about those questions and tell us what they think. Later, we will come together, as a people, and talk about those things and come to an agreement.

Mr BURKE: Like from every area, you can have one white and one black.

Mr HATTON: Maybe.

Mr BURKE: From every area.

Mr HATTON: Maybe, I don't know. It is up to the people to make those rules. It is not up to the politicians. We cannot say: 'You must do this and you must not do that'. On this one, you say that. It is your say, it is for you and everyone else in the Territory. If you really want to bring this Territory together, if you really want to make sure there is a future for yourself and your children and everybody else's children, you have got to find a way to live together, to look at protecting your culture and your land and all those things. This is the way to do it, because this is the only chance you have got to lock it up so no government can muck around with it. You do that through a constitution.

Mr HAVNEN: It all comes down to the people that are on that constitutional committee.

Mr HATTON: No, it does not. Who is going on the constitutional convention - you see, we are only preparing recommendations, taking submissions and getting some ideas together. We are asking also for submissions on who should sit on that constitutional convention. Those people are going to take our work and they are going to meet and they will change it, if necessary. We are just giving starting information for them to work.

Mr HAVNEN: Okay. How many people ... ?

Mr HATTON: I don't know. I am asking that question. How many do you reckon?

Mr HAVNEN: Aboriginal people should be represented.

Mr HATTON: I agree. How many Aboriginal people?

Mr BURKE: Half and half.

Mr HAVNEN: Well, the constitutional committee should listen to the Aboriginal people.

Mr HATTON: But maybe you will to have people from different areas.

Mr BURKE: As I said, Steve.

Mr HATTON: I do not want to say you must have this or must have that. I am saying that I want you to think about how you would do that, how you put that together and, later on, when we come back, you tell us how you reckon we should put that committee together. But it has to be a committee the people say is good.

Mr BURKE: So, from the Darwin area, you got one Aboriginal you got one European. The Arnhem area, East Arnhem area whatever, Groote Eylandt, Barkly area, Alice Springs area ...

Mr HATTON: Then there are things like the trade unions which might want to be represented. There might be special separate representation for women and men. Okay? You have got to think about that too. You have got to look at it from women's side and men's side.

Mr BURKE: What have the trade unions got to do with the government? Trade unions - what have they got to do with the government?

Mr HATTON: They want to have a say too. Understand that there are lots of people out there who want to have a say, and we have all got to think about how we are going to put this together, how those people are going to get elected and how they are going to go about doing their job.

I am not asking you for answers now. I do not want answers. I want to say these are the questions. I would like you to go away from here and understand this is an important job to do and it is a job we must do properly. I want you to think about what you think should be done and how we go about doing it so that, later on, when we come back - maybe at the end of this year or early next year - you are in a position to tell us how you think it should be done.

Mr BURKE: Okay. Do we put it our way - one European, one Aboriginal for every area - and you reckon you want to put one union rep?

Mr HATTON: No, I am saying that they are telling me they want to be there too. That is what I am saying. It is not just me. They are saying that, and maybe the land councils want to be there. I don't know.

Mr BURKE: Yes for the Land Council we are on Aboriginal land.

Mr HATTON: Maybe different reps of the land councils and Aboriginal reps. They might be different.

Mr HAVNEN: With the constitutional convention, who is going to appoint them? The government?

Mr HATTON: It will come from the public - it has to come out of the submissions that come through.

Mr HAVNEN: So that people that are in ...

Mr HATTON: It will be made up by the public. Our committee will be making recommendations on that. We want submissions on that too.

Mr HAVNEN: Okay, but a lot of Aboriginal organisations don't have the resources to develop submissions.

Mr HATTON: Well, we don't have to have written submissions necessarily either, John, and please understand that we are giving plenty of time. It is not a time race, and we are happy to come back and back and back and talk over the specific issues, to give people a chance to think them through. Later on, in the end, if you want to just talk to us or write up submissions, we can maybe give you some support to do that. It is really important for us that the information comes through, thought out, and that it is exactly what the people are thinking, because otherwise we are not going to be able to do our job properly.

Look, Brian will have a few words too.

Mr HAVNEN: Betty Finlay wanted to go over some of the stuff that you have spoken about to make it a bit easier for people to understand.

Ms FINLAY: Well when we bin, this mob that come here we can't understand. Mr Hatton we know he's a Minister from Darwin and are... we couldn't understand when he callum one feller, because we don't even know that paper you know, you feller hear im me good way. We know that paper there, and that paper he might just, him here (can't hear) and another one when they been give it away. We don't even know that paper, can't understand it for one. Why, well this mob (can't hear) people's sign him about this paper now we (can't hear). They give it to him about through this paper so I can make him about the law trying we a...(cant hear). You know we tell him all about what we want -law but we (can't hear) Canberra side. What you feller reckon? You feller understand it? (Can't hear) All right! And you feller listen long to me what he bin talk long a me (can't hear) that's our law. He want him me. We bin. We don't want him, we know that. If we going to start talking for this one (can't hear) you gotta start worryin about this one here. We going to loose him - everything anyway. What you feller reckon? (can't hear) You want to talk about for this one (can't hear) because I'm halfcaste (can't hear) only between white and black people. You know Queensland people all about over there. I don't like to say this, but you feller (can't hear) Queensland people what you feller get him over there?

One of them from Queensland here but he's really upset you know so what you feller reckon?

This one law here, this one law here (can't hear) him want im about now we bin talking about this law here not (can't hear) (too many people talking) What you feller reckon? (can't hear).

Well what you feller understand now? Well what you feller talking for this one now? Well what you feller want to say? You know we got time to talk to Mr Hatton. We never see his face. We don't even know him. The only time he come down is to change that law, make us talk about the law, but we never see him about any other time, (can't hear). We hear about him coming to our community that's all. We don't want that law. (Too many talking).

People talking among themselves.

Ms FINLAY: All right? (indecipherable). That is that (inaudible) but that is the law. We could talk about religion here, but we know that. If we are going to start talking about religion and we better start writing about it in here, we are going to lose everything any way. What you got a religion. Any one could talk about religion. You want to go back (indecipherable) between white and black. You know, Queensland people (indecipherable) you going to bring them Queensland people and bring them over here. One of them from Queensland here (indecipherable).

This is a law here, when you going to go die, they wonder we have been talking about this law here. (indecipherable). You got to understand now what you got to do about religion (indecipherable) if you don't understand, you talk to Mr Hatton. We have never seen his face. We don't even know him. The only time he comes down is to change the law and make us (indecipherable). But we never seen him at any other time. We only see him - we only hear about him coming to our community, that is all. We don't want that law.

Mr EDE: My name is Brian Ede and my electorate is all that area south from here and around to the west over that side. I am the Deputy Chairman of the committee and a lot of people have said to me: 'You are Deputy Leader of the Labor Party, so what are you doing with this Country Party mob going around and talking about this constitution?' What I'd like to say is, why we're in it (inaudible) I see this one being all about, because one of the things that people keep bringing up to me, when I travel around my electorate, is: 'We've got Aboriginal law that came from right back at the start and goes straight, one way up to now, and straight one way for the future. Aboriginal law goes like that, all that way'. They say: 'Not like you mob. With your white fellow governments, you change it this way, you go back that way, and change it this way. When it comes in here, it bumps, and then it comes back here and it bumps again. We have a row every time that happens'.

It is like back 14 years ago now. Before that, we didn't have land rights, and then my people worked it up and worked it up and the law was passed down in Canberra to get land rights. After that land rights law, people started to get their land. They started land claims and it is still going ahead with those land claims.

But if, in the next election, the Labor Party got chucked out down in Canberra, we have only got one House of Representatives member up here that we can go for, Warren Snowdon, and there are 140 or something else around the place. What if the Labor Party gets chucked out and some other mob comes in, and they say: 'There's that law, that land rights law that they put in back in 1975-76'. What if they put that one in, they come and they chuck that out? What can we do? We are just one place. All that mob from Queensland, New South Wales and Victoria, what if they all gang up on us? That is the main reason why I am backing up the idea of this constitution, because I reckon that what we should be able to do is lock in the really important things, like that land, the land rights, like sacred sites, and that business about law. We should be able to lock them in so the white fellow law can't continually come and be trying to push them each way.

You people know that law started from before and it is going to go on forever, but everybody around my electorate says: 'We're fed up with white fellows coming trying to bloody change it around and pushing us around, trying to change that sacred sites law, mucking around with our land rights law and veto and things like that for mining'. People say: 'Can't we have something (indecipherable) the same way that we have for Aboriginal law, that goes straight and goes ahead? Why can't we have something which you white fellows will put in, which will have that (indecipherable) like that?' That is the reason why I'm in the constitutional development committee.

I am trying to see if we can have a law for the constitution which will have those things in it. Statehood, that is 10 years away, 20 years - I don't know. But we can't go towards statehood without this constitution, because the constitution has to have those things in it. Not just any constitution. It has to be a proper one. That is why everybody has to be involved and work it up. It has to be a proper one that gets the things that everybody agrees need to be made safe put in there and made safe.

We still have to talk about what safe is. How many people, what percentage of the people can change the constitution. What percentage in a referendum can accept it and those sort of things. They are things that we have to talk about. But we have to think about one thing: what we are trying to do is to get a constitution where the most important things about the Northern Territory, for looking after the things that came from thousand of years before, can be put in, can be locked in so that they can go ahead. So that it doesn't matter, later on, which government comes in - National Party, Labor Party or Country Party - which one comes in, they can't go and back off and say: 'Ah, we're going to change that one, we're going to change it and open up that sacred site there, so that people can bulldoze it', or 'We're going to take back that land from that land claim or take away people's right to veto' or whatever. We've got to figure out what things we are going to put in that law to keep them safe to go ahead for good.

That is going to be a hard job. I think it might take years and years and years, because we will be talking here and we will be agreeing to one thing on this side, but we are going to go along into Darwin and there will be more coming from the miners or from somebody else, and they might say something completely different. They might say they want a constitution that takes away the veto, so they can go straight ahead and mine on Aboriginal land. They might say that. That means we are going to have to start saying: 'Hang on, what have we got? We've got different sides here. We're going to have to start talking about this and working together'. Well, we're going to make sure, in the final analysis, that you don't get rolled over. That is why, at the end of this constitutional convention, even if they say 'yes', it has got to go back to the people, and the people have got to say 'yes' on top. If the people say 'no', it starts all over again.

The other thing too about this one, even after it is said 'yes' to by the people here, if only say 51% say yes, and all Aboriginal people are against it, but it just gets in by 51% and that goes off to Canberra, we've still got the Canberra government that's going to have to pass the constitutional law down there, and that's where we can have another go at stopping it back there. Even if the Labor Party gets kicked out from the House of Representatives, there is no way that the Senate is going to let it go through unless it has substantial support.

The only way it could go through, on that way, is if we don't get involved and do it. If we all turn our back on it and say we don't want to talk about it, then people will say: 'Well look, we are going out front and we are going strong and trying to fight for people and they don't want to fight to get this thing right themselves'. But most people in the Northern Territory that I talk to say: 'We want to put those fights behind us. We want to get our land rights safe, our laws safe, our sacred sites and things safe and then we want to start looking ahead to how we can have a good life for our kids and how we can have decent education, decent health services, a decent chance for jobs and be working together like this. We're fed up with all this. What we want is to try and pull those 2 together and go ahead, all Territorians together'.

That, basically, is what people want, but to do that we have to make some fundamental things safe. We have got to make those basic things safe: the land, the sacred sites, the law, the language and those things have got to be made safe first. If we get them all safe and locked up and we could all agree that nobody is going to be trying to fight us on that one, then we will have something we can start from, all together, Territorians, and go ahead. That is why I'm having a go at this one first.

We might go for 3 or 4 years and we might end up in a big blue and we might be on the other side to this mob. But, as long as I can find something we can agree on, that we pull together on, I want to put all the ones we agree on in there first and get them locked up.

Ms FINLAY: Have you come down here to listen to us or so we can listen to you, so that you can tell us (inaudible)?

Mr EDE: All we are doing now is just opening this up. I am not telling you what I reckon should be in that constitution or whatever. All I am saying is that these things can be there. You mob can talk and we'll send out some tapes and we'll come back in about 6 months, and everybody can get into it then.

Ms FINLAY: We heard what you said. Some of us can understand you, because you're a white man, and some of us can't understand you. We still don't know what you're saying. All we know is that that law, that constitution, we don't want it. That's right in Tennant Creek. We don't want it and if you're not going to listen to us, it is like we're hitting our head against a brick wall, and we would like you to go back to the Legislative Assembly.

Mr HATTON: Can you tell us why you don't want it.

Ms FINLAY: We see that you are asking us now for this law. In the long run, we as Aboriginal people fear that this place will become a state. That is No 1. And then we will have troubles. We will not have any royalties or any land rights

because we know that statehood is white (inaudible) and that's the fear we have at the community, and that is why we don't want the constitution that has been talked about. Take it back to the Legislative Assembly.

Mr HATTON: Right, can I just say this to you. I don't believe it would happen, no matter who comes into government in Canberra. I don't believe it would happen in the Northern Territory, no matter who is in government. I know the CLP government is not going to take away land rights. I know that. You don't believe me and I accept that, but I know that they're not going to. I tell you now that they are not going to. But I say this, I don't believe they will in Canberra either, but I do know this. If the people in Sydney and Melbourne change the way they are thinking about land rights and it becomes important politically for some mob to get elected into Canberra to be against land rights and they go bad on it, they have the power to take it away. You have got no protection against the government taking land rights off you from Canberra but, if you put it in a constitution, no government can touch it.

Ms FINLAY: We have ...

Mr HATTON: That is what a constitution is. If you have that, and you entrench in it the fact that the constitution can only be amended by referendum of the people, like last year when the Australian Constitution had to be amended.

Ms LEWIS: But you said before that the constitution can be taken any way in parliament.

Mr HATTON: No, no it can't, not if you have put into the constitution - it is like it was with the Australian Constitution last year, remember? We were asked to vote 'yes' or 'no' on those different things they wanted to do with the Constitution. The people said 'no', so the government couldn't touch it. When you write the constitution, you can say that some laws may need only 75% of the vote to could change them. You make those when you write the constitution. It is what is called to entrench them, bind them up. But, when you haven't got a constitution, you haven't got the people making a law, and then governments are all powerful and they can do what they like. The constitution is a limit on government. It is not a limit on the people. Do you understand that?

Mr BURKE: Yes for sure.

Ms FINLAY: All right. There is some things we still can't make out but we know that whoever gets into government within Australia, we lose because we are Aboriginal people. It is you people who are the ones who are fighting against your own people, white people. We don't care who gets into government. What we say here, through our resources, is that the federal government always hear us. They done it for many years and today, if we request something from here to the government, they always hear us. What help everybody in Darwin?

Mr HATTON: I don't understand what you're saying there.

Ms FINLAY: What help have we got in Darwin? You are going to ask us to draw up a law. When we turn around and ask you for things in Darwin, what help will we get?

Mr HAVNEN: (inaudible).

Mr HATTON: I just don't agree with that stuff. It is a waste of time for me to be arguing that point ...

Ms FINLAY: Yes, but that's what you came here for. You want us ...

Mr HATTON: I don't agree with what you are saying. I think you are wrong. I don't know what you've been told, but the Northern Territory government is spending tens of millions of dollars a year on Aboriginal people.

Ms FINLAY: No, we get (indecipherable) that is from our (inaudible). That is from just from working for us.

Your (can't hear) constitution, you've got to take this back to the Legislative Assembly, we don't want it. We don't want it. It's no good, the constitution is no good for us.

Mr HATTON: (inaudible).

Ms FINLAY: Yes, when it comes to the constitution, you can take this back to the Legislative Assembly. We don't want it. We don't want it. It is no good. The constitution is no good for us.

Mr BURKE: Wurlkuman, if we get all these in the Northern Territory (can't hear) and if you don't go for that constitution, Canberra might (can't hear) cut it out for us, ngulaku.

Ms FINLAY: That's what you mob, people are saying, but not Canberra mob (inaudible) always the ones that give the (inaudible).

Mr BURKE: They can cut him out any time ...

Ms FINLAY: They can't cut him, nothing, nothing.

Mr BURKE: They can't cut him out anytime (can't hear) Constitution (can't hear) Territory you know (can't hear).

Ms FINLAY: Yes, well, that constitution is no good.

Mr BURKE: Yeh, not (can't hear).

Ms FINLAY: It is no good.

Mr BURKE: Yes.

Mr EDE: If you look at the National Party platform, it doesn't have things there to hold onto land rights. Now, I don't think the National Party is going to win government down in Canberra but, if they did, if the National Party were to win government down in Canberra, where would we be?

Mr BURKE: You are frightened that that might government get in, right? Like the Canberra (inaudible).

Ms FINLAY: Well (inaudible) the Canberra what you are talking about?

Mr BURKE: Yes, but there is a constitution ...

Ms FINLAY: (inaudible) in the Canberra ...

Mr BURKE: ... the Northern Territory

Ms FINLAY: We ought to ring that Canberra and you want to come up and you want name this law something so you can take (indecipherable).

People talking.

Ms FINLAY: They done it before and they are going to do it again. We are already mixed up in Canberra now.

Mr HATTON: But you're also mixed up in the Northern Territory government.

Ms FINLAY: No, we and the Canberra government and we and the Northern Territory government are like this. We're not in a state yet. But, if you are going to ask us to sign this paper, this law, which affects all Aboriginal people, in the long run, half of this will become a state.

Mr HATTON: I'm just asking you ...

Ms FINLAY: Not personally me, everyone.

Mr HATTON: ... do you want to make a law to make your rights stronger? That is all I am asking you. Do you want a law that is going to make your rights stronger? That is what I am asking you. If you don't want to have your rights really strong so no one can muck around with them, then don't have a constitution.

Mr BURKE: (indecipherable).

Ms FINLAY: Let the federal government talk to us about that, not the state government. (Can't hear) Wurlkumanu.... Sorry we don't want to Darwin, Mr Hatton to talk to us, we want Federal government to talk to us about that law.

Mr BURKE: What one?

Ms FINLAY: Sorry. We don't want the government of Mr Hatton to talk to us. We want the federal government to talk to us and make laws.

Mr BURKE: (indecipherable). If we have this constitution, these mob here (indecipherable) whereas now they come up here and start (inaudible) that this government is talking about.

Ms FINLAY: (indecipherable). You don't know.

People talking over each other.

Mr HAVNEN: I'll just read out some of the points that people raised when we were talking. These were some of the things that our councillors raised when we were talking about this whole thing about making the constitution and possible statehood for the Territory. These are the things that our councillors raised. This is Julalikari Council.

They said that Aboriginal people in Tennant Creek represented by Julalikari Council did not want statehood. The council believed that the interests of Aboriginal people and non-Aboriginal people were best protected by keeping powers with the federal government and maintaining the powers and responsibilities of Aboriginal housing organisations also. I guess that extends to remote communities also.

The council said that they wanted Aboriginal control over Aboriginal land and services to Aboriginal people. The council felt that the Northern Territory government could not be trusted to look after Aboriginal people because of its track record, which included attempts to weaken the sacred sites legislation ...

Mr BURKE: That is through statehood.

Mr HAVNEN: ... opposition to land rights and land claims, opposition to independent Aboriginal services such as Yipirinya School, Aboriginal health and legal services and its opposition to Imparja, that is the TV station.

Mr: we ceremony people.

Mr HAVNEN: They felt that another reason why the NT government could not be trusted was its attempts to mainstream Aboriginal services and also its opposition to ATSIC. The council felt that the record of state governments in other parts of Australia was as bad or often worse than the Northern Territory government's, but this, I guess, does not detract from the other people of the Territory.

The council felt that the difference between the relative powers of the Northern Territory government and the state governments has helped maintain the rights of Aboriginal people here in the Northern Territory. They felt that the Commonwealth constraints on the Territory and state government powers is good for Aboriginal people and not bad. The council also wanted an assurance from the NT government that there would be no more legal challenges to the Warumungu land claims, and they also wanted an assurance from the NT government that Aboriginal rights to own, live on and use pastoral land, including excisions, would be (inaudible) and introduced. Those are some of the decisions that came out of this business that is being talked about.

Ms LEWIS: What we want to talk about is ...

A man shouting.

Ms LEWIS: (inaudible) ... they are not going to get us to stay here (inaudible).

There are a lot of people in the NT, it is not only the Aboriginal people. I think they are not sure whether they will give in or not, you know, whether when we do become a state or whatever, they will not have any say. I think that is (inaudible).

Mr HATTON: I think what you are saying is that your people are concerned that they will not have a real say on what goes into this constitution. We know, Brian and myself and all of us know, that we will never get a constitution together that is going to be acceptable or accepted unless it meets the aspirations of Aboriginal people, as much as other people. We know that. You can say that that is just words, but we know that. We know that we would never get the federal government to support us on that. We know that, across the broad spectrum of the Territory, we will not get agreement.

We are not going to achieve the ultimate growing up of the Territory unless, as a community, we can resolve how Aboriginal people and non-Aboriginal people can learn to live together with some form of mutual respect. We are all going to still be here in the future and we all know that, and we can sit here and keep fighting and arguing for the next 20 years if we want to. I do not want that. There has been a lot of bad things in the past, but the ways to ensure that Aboriginal people have a proper say in this job is, firstly, for them to have a say and not walk away from it and, secondly, for them to make sure that there is adequate and proper Aboriginal representation on that constitutional convention.

A person: (indecipherable).

Mr HATTON: I do not know anyone who does not recognise that you have to do that.

I understand the distrust, and the anger in many ways, that Aboriginal people have for the Northern Territory government and the things that John spoke about. I understand that. The points about the land rights claims and the sacred sites arguments and all those fights have been going on for too long, and they have been. They have been going on and some of us have been trying to break down a few of those barriers and get over them, but there is a lot of built-up anger in the place, isn't there?

I understand that you do not trust us. I really do.

Ms FINLAY: (indecipherable).

Mr HATTON: But one day, we are going to be able to overcome that problem. I don't know how long it is going to take but, one day, the Northern Territory government has got to be a government that everybody feels they can trust.

Ms LEWIS: Well, you see, I am not the only person who would like to say these things. I am not the only person. There are lots of people. There are lots of Aboriginal people who cannot even understand. They can't speak up for themselves. So we have to come, some of us, from different parts of the land, we have to come and say something so that you too, as the government, will know what the inside part of us is feeling.

We afraid of that law. All right? We don't want that constitution. We have to have more time to think about it, more time to look at it, and more time to discuss about it. Maybe, in another - maybe - we will tell you what we want, but not at this moment.

Mr HATTON: Good.

Mr EDE: That is exactly what we want. It is no good us trying to pretend that we are going to get this thing found out easy. I think it will take years and years and years. All we are really saying now is let's open it up. Let's have a look at it. Let's see if we can get agreement on enough important things to come together. If we cannot, we will go and start again and start again and start again. If, in 10 years time, we turn around and something is up there and people still say 'no', we will start again.

A person: In 10 years time, (indecipherable) a second class one ...

Mr EDE: It does not matter how long it takes. Nobody, by talking about the constitution, is saying they agree to the constitution. It is 2 different things. Talking about it is trying to win your own point of view, trying to win the things that you want. If, in the end, you say: 'I have not won enough of the things that I reckon are important', you just put 'no' when it comes to the ballot paper. You say 'no', and you keep saying 'no' until you get it. It is not something where people will be able to go away and say: 'Oh, we consulted and everybody agreed'. It will be an election, a full election with people putting 'yes' or 'no'. Then, the results of that will go down to Canberra and the federal parliament to work it out. Or else it will have to go to a referendum right around Australia. So there are other safeguards even beyond that.

The only thing I am saying is: let's talk about it. If we can find things we agree on, well that will be good. If we get so far down the line and we find we cannot agree any more, well okay. That might be the time when people will want to walk out or might do something else. But let us start trying to look for that road first. If we can find it, we will be better off.

Mr HATTON: Can I say too - you said you want time to think about this and to talk about it amongst your own councils and your own people to see what you like, what you don't like. You don't want to be rushed on this. You want to sit back

and have a look at what this is all about, and come to understand what it is all about before you start saying anything. Well, I agree with that. I support that. That is why we are here now. We do not want you to say yes or no. We are saying that we want you to go away and start thinking about it. Start to have a look at some of the stuff that has been written about it. Talk about it amongst yourselves, have a think about it and, when you want to tell us something, when you have had a good think about all the points, come and tell us about it. We are not trying to rush you. We do not want to rush you.

Mr HAVNEN: I think the only way you are going to be able to alleviate the concerns that people have is to have something concrete to put up to them as far as this constitutional convention goes, whereby they are going to have adequate representation on it and whereby they are going to have some assurance that they are not going to lose the rights that they have got under the present legislation as far as sacred sites and lots of other things are concerned. Until you can convince people of that, I do not think they are going to ...

Mr HATTON: How can I get the message through, that that sort of stuff is going to go on anyway. If we write it in the constitution, if we put it there, it will prevent us from doing what we are doing now.

Mr HAVNEN: Given that the CLP government is in control of this whole process at the moment ...

Mr HATTON: No, it is not actually. That is wrong.

Mr HAVNEN: Well, given that Aboriginal people are only a quarter of the population of the Territory, I think that the rest of the Territory population (inaudible) special rights ...

Mr HATTON: There will be some giant fights. I know that now.

Mr EDE: But the Aboriginals do not need to fight. They can still insist on having an 80% majority. If they do not want it still, when it goes down, they make a plea to the federal government that there are Aboriginal people (inaudible) but even though they have got a 70% majority (inaudible) Aboriginal, they still have their use of the Senate or the referendum throughout the rest of Australia.

Mr HAVNEN: Well, yes, but there are dangers in ...

Mr HATTON: John, (inaudible). I admit we are working to avoid - our committee is asking for submissions on it. There is no reason why it (inaudible).

Mr SETTER: This is not a committee of the Northern Territory government. It is a committee of the Northern Territory parliament and it is totally bipartisan. In other words, the Labor Party and the CLP are both represented equally on that committee. We are not here sort of to tell you what is going to go in the constitution. We are here to advise you of how we are going about developing a constitution and to ask you for your opinions.

Now I know that, because you have only considered the matter this morning, you really have not had the opportunity to think it through. We will come back at some later time and discuss it with you again. But already, this morning, we have heard some opinions from the man who was sitting over here and from this lady over here and some other ladies. We are already generating some discussion and some opinions. We are going to leave these books with you so that you can read them and have meetings about them and, when we come back next time, we will have a much longer discussion with you and you will be much better informed about what we are trying to do. I think it is too early yet to make any decisions, but we want you to think about it and we will discuss it with you further next time when we come back.

But there is one very important thing that we all need to really understand and that is that we are not here to talk about statehood. That is another issue for some time in the future. We are here to talk about a constitution, a constitution that is going to enshrine - and that means lock in - the rights of Territorians, of all Territorians, including Aboriginal Territorians. Doubtless, that will include things like protection for land rights and protection for sacred sites and other issues that are of particular interest to you. But we want to hear what you have got to say about that.

In the last 3 weeks, we have been to 30 or 40 Aboriginal communities right out through that southern region, and we have discussed this issue with all of them, and we are saying the same thing to everybody. We are going to come back and talk again, and we want to hear your point of view. We want to hear it after you have had the opportunity to read the documents, discuss the subject amongst yourselves and develop a firm position or opinions about it which we can then discuss with you.

Ms FINLAY: As far as I am concerned, I say no to that constitution. I don't want it.

Mr SETTER: That is fine.

Mr HATTON: I think that is sad. I think it is sad that you do not want to protect yourself.

Ms FINLAY: We will talk about it later on so our own people can let us know. We will have our own people to talk to us and then (inaudible).

Mr HATTON: Yes, sure.

Ms FINLAY: But, at the moment, we say no.

Mr HATTON: Has anybody else anything they feel they want to say?

Mr HAVNEN: I have just one question. Has the committee sought any legal advice on whether a Commonwealth law would take away any rights that were entrenched in the constitution.

Mr EDE: We have a constitutional lawyer travelling around with us.

Mr NICHOLSON: There is a section in the Commonwealth Constitution, section 106. It is not a section that has been (inaudible).

Mr HATTON: Keep an eye on what I am saying to see if I get off the rails, all right.

The question was whether we have had any advice that says whether the federal government could pass a law to ride over the top of the state's constitution. In Australia, there is an Australian Constitution. It covers the Canberra government. It says what it can do and what it cannot do. Now we cannot go outside that constitution, in the Northern Territory. If we write one up here, we cannot go outside that. We can only go inside that. But, when we write one inside that for the people of the Northern Territory, it is only to do with the laws that are made by the Northern Territory government, not the laws that are made by the Canberra government. All right? It would be the laws made by Northern Territory government that would be controlled by that constitution. Where there are laws that are made here, in the Northern Territory parliament, this constitution makes the rules. It puts limits on that. That is because of this separation of powers, and it is outside the ambit of the federal government to interfere with those anyway.

Mr BURKE: (indecipherable).

Mr HAVNEN: The Commonwealth has power to pass laws about Aboriginal matters.

Mr HATTON: That is right.

Mr HAVNEN: I do not know if that is what you said ...

Mr BURKE: (indecipherable)

Mr EDE: (inaudible) So if you have laws at a state level and laws at the federal level, if the federal level pulls out, it is still held under the state law.

Mr HAVNEN: I do not want to spend too much time on this one. I put it up myself. The question is whether you have got these rights and the scenario that you are offering, Brian, is that if the CLP government gets in federally and wants to take away these rights, the special rights of Aboriginal people ...

Mr HATTON: The rights are going to control the Northern Territory government.

Mr EDE: (inaudible).

Mr HATTON: That would depend very much on what was in the statehood agreement, I guess.

Mr NICHOLSON: There is also the question of whether the statehood is granted by a national referendum. If it is granted

by a national referendum, you can build in whatever protection you like.

There is another view that, if it is granted by the section 121 method, once the power is exercised to create a new state under section 121 by the Commonwealth parliament, that power is finished. You cannot come back and have a second bite. Unfortunately, because we have never had a new state before, we do not know whether that is a valid view or not. So, it is a combination of sections 106, 121 and 128.

Mr HATTON: With the lawyers arguing about what the constitution is saying. Does anyone want to say anything else?

Mr HAVNEN: If no one has anything else to say, we will close the meeting up now.

Ms FINLAY: No, we don't want the constitution this time. Take it back to the Legislative Assembly. We don't want it.