

**ALICE SPRINGS — Thursday 13 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 Russell GOLDFLAM

Mr Denis COLLINS

NOTE: Edited Transcript.

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Mr HATTON: Ladies and gentlemen, if I could have your attention, I would like formally to declare this meeting of the Northern Territory Select Committee on Constitutional Development open at 6.17 pm at the Alice Springs Youth Centre.

Our committee was formed originally by the Legislative Assembly in 1985, principally for the purpose of developing towards statehood for the Northern Territory and completing the process of constitutional development for the Northern Territory. In the period since then, there have been some changes in both the membership of the committee and in the terms of reference. I would like to make one thing very clear at this meeting tonight. We are in the process of going to some 59 communities throughout the Northern Territory, between this current 2 months through to the end of May, to explain the work of the committee. However, we are not here to ask people whether or not they support statehood. We are not debating the pros and cons of statehood. We recognise that there are people that are firm advocates for statehood and others who are concerned and nervous about it, and still others that are firmly opposed to it. That is really a question for another day.

What I would ask and what we ask all Territorians to recognise is that one day, whether that day be next year or in 5 years, 10 years or even 20 years time, one day the Northern Territory will complete its program of constitutional development and become a state. However, before we can even think about that question, we need to start talking as a community about what sort of a place we want the Northern Territory to be in the future and you do that through the preparation of a constitution. It is a job that we believe goes beyond the normal political process that you are all subjected to from time to time. From time to time, people in different political parties and across the political spectrum want to engage in a war of words about this, that or some other issue. That will still continue because that is the nature of politics. Sometimes, though,

an issue comes along on which we can all stop and put our politics behind us and take on a role as Territorians, as citizens, and work towards an objective as a community. This program is of that nature.

We are not here to play political games. We are not here as a group of politicians to foist something on the community. We are here to ask you to sit back and think about what sort of things are important to you, where you think the Northern Territory should be going, what sort of a place you want the Northern Territory to be in the future and what sort of rights are important to you. Then we can all work towards developing a law that is very much a law of the people, a law that will govern the government. We have been saying in communities that a constitution is a law that is like the boss over the government, the boss over the courts. It is a law that the government cannot change. Only the people can change it. It is the people's law. It is the means by which the people set the framework and the direction, laying down the way government can work and the things that government cannot interfere with. That comes through a constitution. It is where you, as Territorians, tell us, as politicians, what we can do and what we cannot do and how you expect this Northern Territory to be run.

It is a way in which you can set a framework of rules to come to terms with the diversity of the Northern Territory, to come to terms with how we are going to find a way to live together in a very diverse multicultural, multiracial society, with some sense of harmony and mutual respect. That is a 2-way street. We have to come to terms with the realities of the Northern Territory and say how we want that to work in the future. That is done through the constitution.

We have all suffered from being told we can do this or told that we cannot do that. We have had rules and laws imposed on us from outside. We have rankled at it. Some things that I might have rankled at other people have rejoiced over and vice versa but, continuously throughout the history of the Northern Territory, there have been situations in which we have been told how to run our lives. But, just as each of you as a person needed to grow up out of childhood through adolescence into adulthood and take control of your own life, so one day we, as a community, will need to progress out of our infancy, out of our current adolescence and take our place as adults and take control of our own lives. For once, we will set the rules ourselves for what we want, and not just for ourselves but for the sort of heritage we want to leave for our children and our grandchildren. That is done through a constitution.

Now you can say that this is too hard, that you are not interested and you want to put it aside, but ask yourself what your grandchildren will think of you because you did not take on that responsibility to create a decent, just society for them. I think we all like to think that we can leave a better world behind us when we leave. We would like to leave something for our children that they will look back on with pride in our contribution. We can do that. We have the challenge and we have the opportunity through the drafting of a constitution. It is a frightening task. It is not a task you move into easily or quickly. It is not a task you rush, but the whole fabric of society is shaped by it and it is important for you that you are satisfied with that. It must be what you are going to want for this place, for your home, and it must be something that causes you to say that this is the sort of place you want to live in.

You do not want politicians to have total control over your life. You want to put a fence around them, place some limits on their powers. You want to have a say in how the parliament is structured, how members are elected, who has the right to vote, who has the right to stand for parliament, what the courts can do and what they cannot do and what the Administrator or Governor can do: can he sack the parliament or can't he sack the parliament.

You want to think about other individual rights that you may want to entrench so that governments and politicians cannot touch them. Remember, if there is a government and there are no constitutional limitations on the government, then it has absolute power. The constitution is the vehicle that reins in the government and points it in the direction that you want it to go in. As I said, it is the means by which you protect your rights against the rights of other people.

There are significant minority groups in the Northern Territory, not the least of which are the Aboriginal people, who are desperately concerned to protect their cultural heritage, their language base and their history. They are concerned about it being swamped by a majority non-Aboriginal population, a European population. There are Europeans who are equally concerned about what to them seems to be a roller-coaster of rules and regulations that they perceive as turning themselves into second class citizens in their own state. The only way we can come to terms with that is for all of us, as Territorians, to sit down and talk it through, and come up with a set of rules that we can all live with and are all happy with, under which we can live together with some sort of equality and respect. Through the constitution, you can do that. There is no other way really to do that, because this will bring everybody to talk together. It will make everybody talk.

I will explain briefly how we are going about this job. This time round, our trip is not to receive submissions. This time,

we will talk to the community, explain the role of our committee and talk about how we are going about the job. We will provide you with background information that we have put together so you can think about that, talk about it amongst your friends and colleagues, at work and at home or wherever, and develop your ideas. If you want more information, come back and talk to us later and ask us more questions. Bring us back to talk to you about particular issues if you want to as you develop your ideas. Then, come forward and tell us your ideas, in writing, verbally or however you want to. Bring forward your ideas and, for goodness sake, have your say in this task.

Our job will be to take that information in and to prepare from that a first draft constitution, but we have another very significant job to do which is to prepare recommendations on the structure of a Northern Territory constitutional convention. In layman's terms, that is like a giant drafting committee of Territory people, to get representation from across the Northern Territory, whether it is from the major towns, the southern areas versus the Top End, Aborigines, women's views, mining and pastoral views, urban, small business views, however it is to be structured, to get a cross section of views of people in the Northern Territory. They will take our work, go through that and accept it, reject it or modify it and build up from that the proposed constitution. When they finish their task, that will then go, by way of referendum, to the people to say yes or no.

If the people say no, we will go back and start again and we will keep working at it until we get something that the people are happy with because, in the end, it has to be the people's law. It has to be the law that the people want, can identify with and have a sense of ownership about. Our task is to act as a catalyst, as a stimulator and coordinator, not necessarily the doer. It should and must come from the people to build this up. If you try to think through the practicalities of doing that and trying to get some sense of agreement right across the Northern Territory, if we had a really good run, I think we would do it in 3 to 5 years. That would be a really good run. It is a very big task and we will all be confronted with this over a period of time, so you do not have to feel rushed. We recognise that and we are sitting back and saying: 'Let's start people thinking about it now and build up from that point'.

However, I cannot emphasise enough that it is a job that must be done, and not just in our own interests or just so we take our rightful place as Australians. It must be done to put the rules in place, for the first time, made by the people that are affected by them and to do that so that the Northern Territory goes in the direction the people want it to go in, not the way some other mob from somewhere else want it to go. Take control of your own lives and build towards something good for your kids and for your grandchildren. Build a foundation for them. That is what we are on about.

It is a long road. We have to start down that road sometime and today is a good time to start because we have time now to do it properly and without it being rushed, but we must get into the task.

Thank you very much for listening to that. I think I have said enough for the moment. I would ask Brian Ede, our Deputy Chairman, to say a few words.

Mr EDE: First of all I have to give an apology in advance. Quite some time ago, I agreed to co-host a dinner for Simon Crean tonight at 7 o'clock which I will have to leave for at 7, but there are a few things I would like to say.

For example, last night, I had a talk at home with a person who is a Labor stalwart and he asked me why it is that I, the deputy leader of the Labor Party, am on a committee of this nature, going around with this CLP mob, ex-Chief Ministers etc. He said that surely I must realise that there are 15 of them in the Assembly and 6 ALP members and that, in the final analysis, it will not matter what we put up, they will go over the top of us. Well, if I believed that, I would not be here. I do not believe that, in the Territory, we want that sort of politics any longer, certainly not when it comes to something as fundamental as our constitution. I do think that people are saying: 'Let's have a look at something to include in our constitution which will establish a set of principles which will say what the Territory is'.

It is no good us now saying: 'You want statehood or you do not want statehood'. What is statehood, at this stage? You cannot see it, you cannot feel it and you cannot eat it. It is not until you get something like a constitution that says: 'This is what it means, these are the principles and that is what we stand for', that you can actually say: 'Okay, that is statehood, living under that constitution'. Then you can start to say whether you want it or you do not want it. But, at this stage, it does not mean a thing to argue about it.

There is one fundamental point that we agreed on very early in this committee process and that was that the ultimate decision on whether or not our constitution would be accepted would be taken after a referendum. There is still an argument there as to whether a referendum on a majority under referendum will mean 50-50 or two-thirds, or what will be

appropriate as a substantial enough majority of Territorians accepting this constitution for us to accept it as ratification. That majority has to be negotiated during the period of the discussions that are going on, and that is properly so.

So too must be the degree of entrenchment of the provisions on what proportion of the population has to vote in favour of amending the constitution later on. So, those things will be developed as we go along. If, at some future date, the committee does decide to use power politics and attempt by use of parliamentary majorities or majorities in the community to build up division to get a majority to be able to push through the constitution, I think that the vast majority of Territorians will reject it because Territorians will use the cynicism of people who attempt to go down that road against those people. They will turn around and say that that is not what they are after here in the Territory. We want to try and work to find enough togetherness for us to develop.

If we were to say simply that we did not agree with statehood within the next 3 or 4 years, therefore we were not going to take part in the process of developing a constitution, I think we would have missed an opportunity to carry out what is, I believe, a very worthwhile process, even if we do not arrive at statehood for 15, 20 or 25 years. The fact of the matter is that probably the Territory is in a very good position now to start to have a look at itself, to start to examine what it is on about, what it is trying to achieve, how we are going to work together and how we see ourselves living together. Really, that is the process which we are going through on the constitution.

Even without reaching agreement, the process itself is a good one to go through because, by having a look at what the other person is saying, we should be able to reconcile many of the differences that exist in society now and be able to understand where other people are coming from so that, even if we get to a final position where we are unable to agree on particular points, we are able to understand where the person is coming from. That, in itself, is a good thing.

Steve has covered most of the areas that I was going to cover. I do not think there is a great deal more for me to say. This is a process which is just starting. It is a process which will take us quite a number of years to go through. If, 5 years down the track, we get to a referendum at that stage, and people have a look at it and say that they think it is 90% okay but there is 10% of it they do not like, I would be recommending they say no. Then we will start the whole process over again until we get it right and enough people say that that is the sort of Territory that they want and that they are proud to live in, that they want their children to live in and their grandchildren to grow up in.

I think that there is time for that. I think that it is a process which has to be done by the people. As politicians, we can kick it off. We have the resources to travel around initially, open up some ideas and start the process, but it has to be taken over by a constitutional development convention so that it then does the formal enactment of it. The large majority of that convention has to be people from all walks of life in the community who are able to get together and put together the final document that will go to the people, so that it is the people's document and the people make a judgment on it.

As Steve has said, we are not particularly seeking final positions from people tonight. We will be going around. We will be sending out tapes and attempting by every means we can to get information to people. Then we will come back again, picking up information as we go. There is a Chinese saying that a journey of 1000 leagues starts with a single step. This is the step that starts off that process that, hopefully, will end up with a constitution that we can all be proud of.

Mr HATTON: Col, do you want to add anything?

Mr FIRMIN: No, I will let people start.

Mr HATTON: Before I ask you if you would like to make a statement, I think you are from the Peace Council?

Mr GOLDFLAM: Yes.

Mr HATTON: I know you want to make a submission and I will make sure you get the opportunity tonight.

Mr GOLDFLAM: Good.

Mr HATTON: This booklet that was circulated around to you is what I call a starter's kit. It is meant to be a simple summary of some of the basic issues. That was summarised out of another book we prepared which was published in October 1987. It is a discussion paper on a proposed new state constitution. It has been around the traps now for some 18 months. This booklet is to encourage you. If you see something in it that you want to know more about, you then look into that book and find additional information. There are many things in here. This is an accumulation of information from

different parts around the world, the Americas, Africa, New Zealand and, obviously, the Australian states, and the Northern Territory Self-Government Act.

There are conceptual ideas in there that we agree with and some that we do not agree with. There are things in there that I do not agree with. The point of the book is to put as many things down in front of the community as possible. You might agree with things that I do not agree with. That is fine. That is part of what the process is. There may be things in here that we have not thought of. There have been a couple of examples that have come up in recent times during this round of discussions, things that we had not considered. One was the matter that I think we are about to receive a submission on in respect of nuclear free zones. The second one was in respect of constitutional requirements in respect of environmental safeguards etc. They are views that are coming forward from the community.

Eventually, the broad community will decide on and argue out those issues. Our job is to bring them before you for you to think about as a community and you can see it in the process because it is going to start happening. It is really important that you get involved and have your say, and that is what this is about. It is a process of the community having their say in their own fundamental law.

Having said that I open the meeting up now. I might just take some general queries and comments before we go to submissions. Has anyone any questions that they would like to ask? Well, perhaps we have to proceed with the next stage. Are you sure there is nothing you would like to raise or talk about? There are copies of these books and 2 other booklets over there also. One is the discussion document on the constitutional convention. Again, it contains some ideas that we were thinking of and it is equally important that you have your say about how that should be set up and how you think it should work. That convention is where the fundamental work will be done. If we put that together, I can guarantee that people would say that we had weighted it and loaded it, and that we had done this to it or something else.

We want to get views from the community on how that convention will operate. It is your convention and really you should have an input into how you think it should be put together. Is there adequate representation from central Australia? Is there adequate representation from different aspects of the community? How do you get them in? How do you get local government representation in, and so on?

The other document is an information paper on how you go about making a new state. It describes the technical procedures of the constitution and how new states are made as best we can describe them considering it has never been done before in Australia. At least, it will give you an idea of the ways to go about doing it. There is information for you. It answers many of the questions people are always asking on how you go about doing this. That will tell you.

Perhaps I could ask you, sir, if you would like to come forward.

Mr GOLDFLAM: Shall I sit here?

Mr HATTON: It might be easier to have the microphone there.

Mr GOLDFLAM: My name is Russell Goldflam and I am a representative from the Alice Springs Peace Group. I will make a few personal remarks at the end, but first I will present this submission on behalf of the group. I see that you have a copy of it already which we mailed to you. As some people are probably aware, we attempted to present this submission at the abortive last meeting of this committee, however, we have the option to do that now.

Before reading through this so that, I understand, it will be recorded by Hansard, I will make a couple of points. There are 2 comments in relation to this submission which are not made explicit in it and I think they are worth making.

The first is that the views I am putting forward here are the views of the Alice Springs Peace Group, which has quite definite policies on a number of issues. Some are policies which are not necessarily terribly popular in the community or would not be likely to be agreed to by members of this committee. Nevertheless, the issues that we have raised are ones which, as Mr Hatton mentioned, could be included in a possible constitution without necessarily going to the same extent as we do in our views or being embodied completely, and I think it is important that the issues that we are talking about be raised. It may end up that the constitution may have in it some articles related to peace and so on which we do not agree with very much at all. We might consider them a waste of time, but it is still important that the issue be debated and resolved in some way or other through this process. We are attempting to get that debate rolling as well as putting our own views.

Secondly, we are also aware that the sorts of things that we are talking about would immediately place a Northern Territory constitution in conflict with the federal powers because the federal government controls most of the activities that we are talking about. We are aware of that but, of course, that does not stop us from holding our views or pressing, as much as we can with the political means available to us, for a change to the current situation. It is not that we have overlooked that, it is just that we would attempt to have our views articulated as widely as possible. With those remarks in mind, I will read this submission.

This submission represents the views of the Alice Springs Peace Group on a number of specific issues. It does not address the questions of statehood or increased autonomy for the Northern Territory. In fact, at this time, the ASPG has no policy on these matters. This submission should not, therefore, be taken as an endorsement of the statehood process or even of the need for a constitution for the Northern Territory at all. In particular, the ASPG recognises the continuing sovereignty of Aboriginal people in the Northern Territory and, consequently, their right not to have statehood imposed on them. However, if there is to be a constitution, the opportunity should not be neglected to include in it provisions which strengthen the security of the Northern Territory and its people. The ASPG thanks the constitutional committee for making available this opportunity to make our contribution to its work.

There are many local and international precedents for the inclusion of articles such as the ones proposed here in the charters of political systems at all levels, from the municipal through to the international. At the local government level, there are at least 104 nuclear free zone councils in Australia, many of which have a larger constituency than the entire Northern Territory, and there are over 2700 nuclear free councils worldwide. For example, over 65% of New Zealanders live in local authorities which declared nuclear free zones.

At the state level there are, of course, no constitutional precedents as all such documents were drafted in the 19th century. However, in 1982, the Victorian state government enacted legislation giving effect to a nuclear free Victoria and, 2 years later, the ACT Nuclear Prohibitions Ordinance was passed by the ACT House of Assembly. In Britain, the 13 counties of Wales all voted themselves nuclear free in 1983. In our own region, there have been a number of initiatives to establish nuclear free zones at the national level. The example of New Zealand is well known. In addition, the Republic of Palau has a nuclear free constitution and Vanuatu has banned visits by nuclear ships. The Babendra government of Fiji had committed itself to establish a nuclear free zone before it was deposed. Currently, the Philippines is considering the introduction of nuclear free provisions into its constitution, which is due to be adopted in 1992. Finally, there are international treaties and agreements limiting the use of nuclear arms and power. The Antarctic and Latin America have been subject to nuclear weapons free zone agreements since the 1960s. The Treaty of Rarotonga 1985 established a partial nuclear free zone in the South Pacific. Other treaties establishing nuclear free zones are the Outer Space Treaty of 1967 and the International Seabed Treaty of 1971.

The ASPG supports the following principles, which should be embodied in a constitution for the Northern Territory.

The Northern Territory shall be declared a nuclear free zone and, other than for strictly controlled medical and research purposes, no radioactive material shall be mined, milled, processed, stored, bought, sold or transported within the Northern Territory.

The prior occupation and ownership by Aboriginal people of the Northern Territory, their continuing sovereignty over the Northern Territory, their right to self-government, land rights and compensation for dispossession are recognised and affirmed.

All nuclear war fighting and associated ...

A person interjecting.

Mr GOLDFLAM: Can you wait till I am finished before making your comments? I would be interested to discuss it with you then.

All nuclear war fighting and associated intelligence facilities existing in the Northern Territory shall be immediately closed down when the constitution comes into force.

No further nuclear war fighting or associated intelligence facilities and activities may be established or maintained in the Northern Territory.

No nuclear powered and/or armed vessels or aircraft shall be permitted to visit or use harbour or other support facilities in the Northern Territory, excepting in emergencies where human life is in immediate danger.

No facilities shall be established within the Northern Territory with the purpose of undermining the sovereignty and independence of other nations by allowing these facilities to spy on them.

No facilities shall be established in the Northern Territory which play a role in supporting foreign, nuclear or non-nuclear military strategies, including the US Star Wars program.

No facilities shall be established in the Northern Territory which involve Australia in contributing to the nuclear arms race.

The import of these provisions, if included in a Northern Territory constitution, will be to cease uranium mining in the NT, close Pine Gap and halt the flights into the NT of B52s, B1 bombers and other nuclear capable aircraft. It would also result in the serious questioning of the role of other facilities such as - there is a mistake here in the written submission. It should be Shoal Bay not Cabarlah, which is in Queensland. But, it is in the same network.

Mr Firmin interjecting.

Mr GOLDFLAM: Yes, I realised later that I had made a mistake.

It would also result in the serious questioning of the role of other facilities such as Shoal Bay, Detachment 421 in Alice Springs, Tindal and Jindalee, the operations of which also, in the light of public investigation, may prove to be contrary to the above principles.

That is a written submission ...

Mr FIRMIN: Well, what do you reckon?

Mr GOLDFLAM: I wanted to make a few personal remarks, not on behalf of the peace group and, since I am here, I thought I might as well take that opportunity.

One thing I do agree with this committee about is the level of the importance of this entire process. The fact that Brian has a prior commitment and is going off to meet Mr Crean and the fact that the Mardi Gras was on last week, when we attempted to meet you, I think indicate just how important this really is in the context of the rest of all of our lives, as does the fact that there is a very small number of people here today, despite the fact that an editorial in the paper exhorted us all to come, and an even smaller number of people appeared on the original date last week. I might note too that, of the 15 people I have counted here tonight, at least 7 are either members of the Legislative Assembly or their staff. That is about half.

Mr FIRMIN: Local members we count as being visitors.

Mr GOLDFLAM: Yes, I know, but this leads me to think that the main beneficiaries of a constitution for statehood might in fact be our members of the Legislative Assembly or whatever it becomes should a state be introduced.

Personally, I am opposed to the idea of the Northern Territory becoming a state, and there are some luminary precedents for that view, namely the incumbent Governor-General and his immediate predecessor. The final speech that Sir Ninian Stephen made when he left his post was to the effect that the states should be dismantled. I think actually that the Northern Territory is way out in front of the rest of Australia. We have already achieved non-statehood, which is actually a very positive thing because it cuts down on unnecessary bureaucracy, over representation ...

Mr COLLINS: It concentrates the power in ...

Mr GOLDFLAM: Of course, that is the other issue. I think that local government should be much stronger. Municipal authorities should be strengthened, as is the case in the United Kingdom, for example.

These are my personal views, not those of the peace group, and I just thought I would take the opportunity to present them since I am here.

Mr HATTON: Thank you very much. I would like to ask a few questions on your submission.

Mr GOLDFLAM: Sure.

Mr HATTON: I will have to deal both with the submission of the organisation you are representing and your personal views.

Mr GOLDFLAM: Certainly.

Mr HATTON. You appreciate that.

You made a comment at the end that non-statehood will alleviate bureaucratic costs to the community. Before we go further, could you give your full name and address and organisation for the record?

Mr GOLDFLAM: Russell Goldflam, 10 Giles Street, Alice Springs.

Mr HATTON: Representing?

Mr GOLDFLAM: The Alice Springs Peace Group.

Mr HATTON: Could you please describe the Alice Springs Peace Group, for the purpose of the record.

Mr GOLDFLAM: The Alice Springs Peace Group is a community organisation of about 200 members. It is an incorporated body under the Northern Territory - I am not sure of the name of the act.

Mr HATTON: Associations Incorporation Act.

Mr GOLDFLAM: Thank you. In general terms, its aims are to promote peace.

Mr HATTON: Are you fully self-funding?

Mr GOLDFLAM: Yes. Unfortunately, we do not get any funding from anywhere except our own members and supporters.

Mr HATTON: Would you be properly described as a single interest political activist group?

Mr GOLDFLAM: Yes, I think that is fair to say.

Mr HATTON: Do you support the view that political single issue or single interest group political activists should be funded from the public purse?

Mr Ede: He is not.

Mr HATTON: Sure, but he said he was sad to say he was not.

Mr GOLDFLAM: I think that, though not necessarily our group, there are many single interest groups, such as the National Heart Foundation, which are funded from the public ...

Mr HATTON: I said political groups.

Mr GOLDFLAM: Yes, I think that there are cases to be made, though not necessarily ours.

Mr HATTON: Do you believe this particular program is a political program?

Mr GOLDFLAM: The constitutional development committee?

Mr HATTON: Yes.

Mr GOLDFLAM: Yes, I do.

Mr HATTON: Do you believe that it should be funded by the state?

Mr GOLDFLAM: Yes, I do.



Mr HATTON: Then why were you critical on radio this week of the waste of government money through the committee going out to talk to the community?

Mr GOLDFLAM: I was critical because I do not believe that the most appropriate way of consulting is to send a large number of MLAs - and, compared to the total number of MLAs in the Assembly, I consider it is large - on a trip around to so many communities with so little prior opportunity being given to those communities to get to know what the issues are. And I think that that view is demonstrated by the level of support that this process has attracted in our own community - almost nothing.

Mr HATTON: By way of advice to the committee, could you say how we could get people to the stage where they would know what was going on so they could then start putting some thoughts together to make submissions? How would you recommend that we go about that?

Mr GOLDFLAM: I think that this whole exercise is premature. I agree in principle with the idea of the government promoting the idea of the development of the Northern Territory, in whatever way it seems to be developing but, until there is demonstrated to be a level of considerable public interest in an issue like statehood, I do not think it is appropriate to start spending money on it. So, I am not opposed to it in principle; I am opposed to the timing.

In 5 years time, it may be that it is obvious that there is a high level of public interest in this issue but, so far, from my following of the media over the last few months, that seems to be anything but the case at the present time.

Mr HATTON: Is your entire view developed on what you read in the media?

Mr GOLDFLAM: No, of course not. I have read this material here. I obtained a copy of those larger papers a couple of days ago, though I have not had the opportunity to read them, and I have an interest in it all.

Mr EDE: Would you see this process, when we undertake it, at whatever time, to be one that should be gone through as a speedy process or should it be drawn out? What should govern the pace - the people themselves, the politicians or ...?

Mr GOLDFLAM: I think there is a problem, which I am sure you appreciate too, in that there is a high level of apathy in the Australian community. That was indicated with the work of the constitutional reforms - whatever they were called - that the Commonwealth instigated in 1987. I think that was when it started, although it might have been earlier ...

Mr Hatton: A lot earlier.

Mr GOLDFLAM: So, you do have to give people a bit of a kick in the pants. But, all the same, I think that the kick that we are getting - well, that is not a very nice metaphor, so I will desist - but I think that this process is just far too early because there is such a low level of interest in it. Perhaps schools programs would be an appropriate way to have these issues raised so that we are looking at kids developing an interest in the issues and growing up with that interest.

Mr EDE: Wouldn't you say that it would be better though to develop the constitution in a measured, steady way before the heat comes on for a rapid move towards statehood?

Mr GOLDFLAM: Yes, I agree with that.

Mr EDE: Thank you.

Mr GOLDFLAM: The answer to your question is, yes, it should be slow and it should involve both the public and the legislature.

Mr HATTON: When do you decide the magical moment to start?

Mr GOLDFLAM: That is a good question, Mr Hatton. I cannot answer that.

Mr HATTON: Well, the parliament has decided that now is the time.

Mr GOLDFLAM: Yes, I know.

Mr EDE: I will have to ask to be excused.

Mr GOLDFLAM: I was just expressing my disagreement with that, based on my perception of community attitudes. I do not claim any expertise in that.

Mr HATTON: I guess the parliament has a different view.

Mr GOLDFLAM: Obviously.

Mr HATTON: And I think I will go along with the parliament's view, if you do not mind

Mr GOLDFLAM: Not in the least.

Mr HATTON: I would like to come to this submission. You say your organisation supports Aboriginal sovereignty?

Mr GOLDFLAM: Yes.

Mr HATTON: What do you mean by that?

Mr GOLDFLAM: It is true that we have not got a written policy which specifies precisely what we mean by that. However, I think the same can be said for, for example, the Central Land Council itself. As far as I am aware, it has not published a policy document which sets out exactly what it means by sovereignty.

Mr HATTON: But it is not here making a submission to us. You are.

Mr GOLDFLAM: Yes, that is correct.

Mr HATTON: You have made that submission to us. That is a fundamentally important issue on anything to do with the constitution.

Mr GOLDFLAM: Yes. I intended to go on to say that, although we have not got this in detail, to us sovereignty means that there is a right, over and above that of the rest of the citizens in a particular area, to be consulted and involved in the development of the machinery of the administration of the state. I think that the Commonwealth Land Rights Act of 1976, in effect, goes a long way to acknowledging sovereignty in those areas for which land claims are successfully lodged.

Mr HATTON: How?

Mr GOLDFLAM: Because in practical terms it gives members of the community in which title is vested a large degree of self determination. They have the opportunity to decide what happens on their land, to a large extent, and what does not happen on their land. They have the opportunity to be involved in the delivery of social and human services to their own community ...

Mr HATTON: Under the Land Rights Act, or under separate programs?

Mr GOLDFLAM: Obviously, the Land Rights Act does not set up education services, but people who have land under the Land Rights Act are in a much more - it is much easier for them to go through the process of setting up a health service, for example, or an independent school. And that is what is happening.

Mr HATTON: Why?

Mr GOLDFLAM: Because, if you have control of the land that you are on, you are in a position, for example, to build buildings on it and establish your health service on it.

Mr HATTON: If you have ownership of land?

Mr GOLDFLAM: Yes.

Mr HATTON: Where do you get the money from?

Mr GOLDFLAM: I am sorry. I am not sure where your questioning is leading.

Mr HATTON: I am trying to find out what you are talking about with Aboriginal sovereignty, because the concept of sovereignty means a sovereign nation or a sovereign state. That is what it means, when you use that term. I am trying to find out whether that is exactly what you are saying.

Mr GOLDFLAM: So what has that to do with where they get the money from to put in a health service?

Mr HATTON: Well, you are the one talking about money. I was trying be non-leading. Are you saying that the Aboriginal people should be a sovereign state within the Northern Territory?

Mr GOLDFLAM: What do you mean by a sovereign state?

Mr HATTON: I mean exactly that: a sovereign, independent state.

Mr Collins: Absolute power.

Mr GOLDFLAM: No, I do not mean absolute power, if that is what Mr Collins means.

Mr Collins: That is what sovereign means.

Mr GOLDFLAM: Well, you say that that is what sovereign means.

Mr Collins: It means that in international law.

Mr HATTON: That is the implication of what you are saying. If that is not what you mean, then it is important you clarify that on Hansard.

Mr GOLDFLAM: Yes. I think ...

Mr HATTON: Are you saying they are people within the same society, within the same sovereign state, but with some special place? Or are you saying ...

Mr GOLDFLAM: I think that it would possible to draft an agreement whereby sovereignty, in some form, was acknowledged to Aboriginal people and, at the same time, Aboriginal people acknowledged the rights of non-Aboriginal people and other Aboriginal people to have their own government and to live and to continue our society as we know it. That is what is meant. I think that that is what is behind the idea of establishing a treaty.

In my opinion, the idea of the treaty is an attempt to recognise those fundamental rights of Aboriginal people without having to disband current arrangements for living on the part of all of the people in Australia as we know it.

Mr HATTON: This is where I am coming to the nub of some of the points.

In respect of that, are you saying that, on Aboriginal land in this sovereign Aboriginal community, they have the sole say of what should happen on that land?

Mr GOLDFLAM: No, I am not saying that.

Mr HATTON: Are you saying that the government should have some overriding powers over that?

Mr GOLDFLAM: In certain areas, yes.

Mr HATTON: Which areas?

Mr GOLDFLAM: Again, I have to speak personally here, because this is not an issue that the peace group has decided on. For example, if an Aboriginal community wanted to mine uranium and, in our constitution, it was set down that this was a nuclear free zone, I would say that that provision of the constitution would override the rights of the Aboriginal people to decide what to do on their country.

Mr HATTON: If it were not uranium but it was an important national mineral, should they have the right to say no?

Mr GOLDFLAM: In my opinion, they should.

Mr HATTON: Well, you mean they cannot say yes to some things but they can say no to others. Is that what you are putting forward?

Mr GOLDFLAM: If a provision was written into the constitution that an important national mineral had a right to be mined, then that would obviously override anything else. The constitution is the fundamental legal document that exists for a state.

Mr HATTON: Yes. So, they would be part part of this state?

Mr GOLDFLAM: Yes.

Mr HATTON: They would have rights that are different to those of everybody else in the state?

Mr GOLDFLAM: In practical terms, most of them would not.

The way we see it is, we are looking at an agreement to exchange certain rights and obligations with each other so that Aboriginal people would be ceded an acknowledgement of sovereignty by the rest of the country or the state and, in return, they would say: 'Okay, you have acknowledged that we are here, that we are the prior owners of this land and that we have not left. We would like to acknowledge that you are here and that you will continue to live here and to run the country your way'. That is the way we see it. We do not see it as a situation where, all of a sudden, we have a black king.

Mr HATTON: All right. Then all of the constitutional rights and responsibilities that apply to everybody else would apply to them too?

Mr GOLDFLAM: Yes.

Mr HATTON: Therefore, the government's rights and responsibilities with respect to Aboriginal people should be the same for them as for other people?

Mr GOLDFLAM: Yes, but there will be areas of land, as there currently are, on which live the traditional owners of land which they have successfully claimed. Obviously, they have different rights and responsibilities under existing legislation to other Territorians and, of course, our group would support that that sort of system continue.

Mr HATTON: That is a separate question which I am not going to debate now.

Mr GOLDFLAM: No. It is not under a constitution, but it is a caveat to your statement.

Mr HATTON: The point I am making is that there appears to be quite a conflict in your submission in the concept of Aboriginal sovereignty, and you are saying that you will close down all uranium mines, all milling of uranium, and you will close down defence bases in this state, all defence bases effectively, except ...

Mr GOLDFLAM: No.

Mr HATTON: ... conventional Australian army defence facilities.

Mr GOLDFLAM: Yes.

Mr HATTON: You will provide no cooperation to our allies.

Mr GOLDFLAM: No, I did not say that.

Mr HATTON: Well, you are. By implication, it seems to be.

Mr GOLDFLAM: You can read it that way if you wish, but that is not what we mean.

Mr HATTON: And you are saying that Aboriginal people can have the right to say yes or no on what happens on their land, except on those things you do not think they should have a right to say that on.

Mr GOLDFLAM: No, except on those things that the constitution ...

Mr HATTON: Which you want to put into the constitution?

Mr GOLDFLAM: Well, you are asking us to say what we want to put into it.

Mr FIRMIN: But you are saying it on behalf of some people I presume you do not represent. Where have you established this policy from? Have you been out to talk to the Aboriginal people? Have you any background information from those people about what you are saying here?

Mr GOLDFLAM: Personally, yes. I have talked to hundreds of Aboriginal people. Any group is entitled to have its views ...

Mr Hatton: That is true.

Mr GOLDFLAM: ... about any issue, and that is all we are doing. We are not claiming to have any special right over anybody else to have views on sovereignty, but we have our view.

Mr HATTON: Okay, fine. I think I know what you mean by sovereignty now, if you do not mean a separate sovereign state.

Mr GOLDFLAM: No. Actually, I think it is important that your committee try and get into this issue and disentangle this obviously terrible confusion in the community about what land rights means and what sovereignty means. I think it is important that that be clarified, and perhaps that is a very valuable job that this committee ...

Mr HATTON: I was not asking those questions just to be difficult, but concepts are being thrown around by people such as yourself with no explanation, and it is very confusing.

Mr GOLDFLAM: I agree with that.

Mr HATTON: And inflaming generally in the community.

Mr GOLDFLAM: I agree with that too, although I must say that we did not put this in to be provocative. We wanted to make a submission which addressed the issues on which we currently have policies and not to go beyond that.

Mr HATTON: You are referring also to our becoming a nuclear free state constitutionally.

Mr GOLDFLAM: Yes.

Mr HATTON: You would know that a state is, of course, limited in its powers by the Australian Constitution?

Mr GOLDFLAM: Yes, I mentioned that earlier.

Mr HATTON: You did, and I think you also raised that matter in media comments during the week ...

Mr GOLDFLAM: Yes.

Mr HATTON: ... to the effect that it would really be symbolic.

Mr GOLDFLAM: Initially, it may be symbolic but, as I said on the ABC, if other states - not only Victoria and the ACT, but the Northern Territory and others as well - started to introduce provisions like this into their state laws, even if they were not able to be implemented because they were overridden by national policy, the political reality of such a strong community supported move would mean that, sooner or later, the federal government would probably be influenced in its own policies by that. So it is not just a symbolic thing. It is a political act which we are hoping will become more and more popular over the years and, maybe in the year 2050, all the states will have made it clear that they want to have a nuclear free Australia.

Mr HATTON: But it would be entrenching a non-enforceable constitutional provision.

Mr GOLDFLAM: Yes, but then look at the United Nations Charter: all men shall be free and equal, or whatever it says. I mean every constitution is full of motherhood statements which are unenforceable.

Mr HATTON: Yes. Does your group support the nuclear non-proliferation treaty?

Mr GOLDFLAM: Yes.

Mr HATTON: You do support it?

Mr GOLDFLAM: This is the treaty ...?

Mr HATTON: The nuclear non-proliferation treaty, the United Nations treaty.

Mr GOLDFLAM: Yes, we support that.

Mr HATTON: Presumably, then, you would support Article 4?

Mr GOLDFLAM: Obviously, I am not familiar with what that article says.

Mr HATTON: I should read it to you.

Mr GOLDFLAM: Yes please.

Mr HATTON: It says:

Nothing in this treaty shall be interpreted as affecting the inalienable right of all the parties to the treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles 1 and 2 of this treaty.

(2) All the parties to the treaty undertake to facilitate and have the right to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful use of nuclear energy. Parties to the treaty in a position to do so shall also cooperate in contributing, alone or together with other states or international organisations, to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear weapon states party to the treaty with due consideration for the needs of the developing areas of the world.

Mr GOLDFLAM: Of course, I do not deny that every country has the right to develop peaceful nuclear power ...

Mr HATTON: It goes further. It says that we have an obligation to facilitate and assist the peaceful use of nuclear power.

Mr GOLDFLAM: Well, I do not agree with that, and our group does not agree with that either.

Mr HATTON: Are there any other points you would like to make?

Mr GOLDFLAM: No, I do not think so at this stage, unless Mr Collins was unable to restrain himself. Do you want to say anything?

Mr HATTON: This is a matter for the subcommittee I think, Mr Goldflam. I do not want to get an argument going between people in the audience. I know that some issues can be quite emotive. I just want to get on Hansard the particular points that are being made.

Mr GOLDFLAM: Thanks very much, Mr Hatton.

Mr HATTON: Would anybody else like to raise any other issues or ask any questions about the process of constitutional development. As you can see, we will be having an interesting few years of debate.

I really would like to thank you for the submission you have made. I mean that seriously. I know I have been in some ways aggressive in response to that, but I think it is important to get views recorded by Hansard as such. However, I do thank you for the contribution. I hope your group will also think about the submissions that are coming through from other people and keep contributing in this process.

Mr COLLINS: Mr Chairman, I think one of the difficulties that will arise is clarity of definitions. We have had an excellent example here tonight when the paper presented used the word 'sovereignty'. 'We acknowledge the sovereignty of the Aboriginal people'. Now, it was quite clear from your questioning of Mr Goldflam that you have a rather different definition, and certainly I have, of what sovereignty means. I think it is very important for Mr Goldflam and his group to possibly look to choose another word because sovereignty, in my book and I think in international law, means total control and that no one else has the right.

If Mr Goldflam believes and if it is interpreted under international law that the Aboriginal people have sovereign right to the Territory, then non-Aboriginal people are here only at their behest and, if they asked us to get out then, with international law or the United Nations behind them, we could be asked to disappear across the border. I do not think that is really what you mean and what you are saying but that is the interpretation. If I had not been here tonight and had not heard that and picked up your paper, I can assure you that that would be roundly condemned. So, could I suggest that your group looks for an alternative. It may be appropriate to choose a group of words to put what you mean because otherwise you have us totally confused.

Mr HATTON: I might say also that, at page 93 of this discussion booklet, there is a discussion of Aboriginal rights, and clause 3 raises an interesting issue. I will just read this section for the interest of people:

There is a question whether the new state constitution should go further in its reference to Aboriginal citizens of the new state. One possibility is to include in the constitution some fundamental principles of a non-enforceable nature in the form of a preamble which would give particular recognition to the place of those citizens in contemporary society.

That refers also to part T, paragraph 8 below.

The committee has recognised that this will be an issue to be debated and has raised the matter in the discussion documents. Inevitably, it will be raised, certainly within the Aboriginal sections of the community, and matters have been raised informally with our committee on that. Yet I do not believe that Aboriginal people are necessarily saying that in that process we go into a process of legally enforceable reparation for the last 200 years.

Mr FIRMIN: What they are saying is really what you said: 'Please recognise us', and 'we all want to get on together but, at long last, will you just say ...'

Mr HATTON: 'We used to be here, and we are still here' rather than saying 'We now want millions of dollars payment for the last 200 years'. There is a big difference and I think it would be good for the community generally to think about those issues and the realities of that and whether that is part of the mending process for our society.

Mr COLLINS: May I make a comment, Mr Chairman. Personally, I believe the best way the constitution could recognise Aboriginal people and accept them into the community is by not having anything separate on Aboriginal people. If the parliament of the state of the Northern Territory wants to introduce legislation which assists people who are disadvantaged, without reference to colour, then that is beaut. That applies to the parliament too, but I really honestly believe that the greatest way we can say 'we accept you totally as Territorians' is to include everybody under the same umbrella.

Mr FIRMIN: In a perfect world that is probably correct. The problem we have at the moment, of course, is that there has been conflict in the community between the black and white communities over land rights, and that will take some time to heal.

At the moment, in certain circumstances, the Aboriginals are already saying to us that what they have by way of land rights is not acceptable to them anyway. They like the recognition of the land. The problem is that the Land Rights Act, as it is at the moment, ties them up so much that they cannot do anything. What some of them are putting to us, and we believe it will come through stronger later on, is that they do really want land recognition in the same way as we have it. We know that that is the place to go to, however, as was said earlier and we say it at the communities to the Aboriginals, there has been a lot of mistrust of politicians in the last few years in the Territory in the Aboriginal communities, and that is quite honest. There has been terrific mistrust of politicians ...

Mr Hatton: And government.

Mr FIRMIN: ... for whatever reasons, and of governments, of whatever type, it does not matter. There is mistrust. Unless you can build trust, you could never come to that perfect solution that you would like to see in that sense. You will find

that probably what we will have to come to agree to is a recognition of land rights within the constitution as a basic framework. In other words, the understanding that it is a right, but the ...

Mr Collins: For all Territorians?

Mr FIRMIN: Yes.

Mr Hatton: That is part of what the community has to talk about.

Mr FIRMIN: There may need to be some statement with respect to their land as well. However, it may be that you may find that they turn round, as they did in parts today in conversation, and say they would like to change parts of the act so that they can trade with the land and can do things with it. For example, so that they can build houses which they can own, personally, on their own land and so and build up equity in it.

Mr COLLINS: I appreciate what Mr Firmin has to say but, in a sense, he has that attitude of 'them' and 'us'. I am simply saying 'we'.

Mr FIRMIN: Sure, but we have said the same thing.

Mr HATTON: It is a very complicated issue and we are setting matters out there that we know are in the community mind. We are saying: 'The debate is going to happen; have your 2 bobs worth'.

Mr COLLINS: I am.

Mr GOLDFLAM: Mr Chairman, in relation to the extract that you read from that booklet, that reminded me that, last year federally, there were 2 precedents for that sort of thing which I think might be useful documents for you to look at for inspiration. One was the preamble for the ATSIC bill. There were some problems with that with a number of Aboriginal communities, I understand, because the way it was worded perhaps restricted the possibility for further land rights, but nevertheless the spirit of the thing seemed to be relatively unobjectionable.

The second was the resolution which was going to be put to the parliament sponsored by a large number of church bodies, to sort of mark the beginning of 1988. I do not know if you remember that. For whatever reasons, the opposition chose not to support that. However, the intention of that was to provide something that would not have any particular legislative effect and would be something that the community would find unobjectionable but which provided a recognition that Aboriginal people had been subject to unfair and harsh treatment in history. Unfortunately, the parliament was not able to reach a consensus on that, but those sorts of statements might well be ones which could be used for models for you if you were thinking of introducing preambles of that nature.

Mr HATTON: We are aware of them. We are also aware of some of the very serious technical legal problems that arose as a consequence of those statements and that is why we are less flamboyant in our approach than the ATSIC proposal was. Would that be a fair comment, Mr Nicholson? Mr Nicholson is our constitutional lawyer. We have him with us because of the potential for international legal implications.

Would anyone else like to raise any other issues they would like to talk about? I know people are interested to call it quits.

Well, thank you very much for coming along. I am sorry so few people are here but we will persist and keep working to the community to get these views out among people and encourage them to take the opportunity to have their say. Thank you very much.