

PUBLIC MEETING

BESWICK — Wednesday 15 March 1989

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 Ray FORDIMAIL

Mr Richard KENNEDY

Mr Adam HOLME

Mr Alan WILSON

Mr John ANGUS

Mr Steve WHITE

Also present:

Barry WESTON

Sam ASHLEY

Abraham WESAN

Donald BLITNER Snr

Gloria LANE

Bandicoot ROBINSON

Neil WILLIAM

Andre ZONN

Sammy BUSH

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

Mr HATTON: Thank you very much for meeting with us today. We are hoping that Wes will be here. We have been chasing him all morning trying to track him down. I am not sure where he is at the moment. He was in Katherine with us last night. We have not been able to find him this morning, but hopefully he will be out here. Maybe that is him now. We are members of a committee of the Legislative Assembly of the Northern Territory. At the back of the book that you have been given, you will see a list of the people on the committee. There are 6 of us, 3 of us from the CLP and 3 from the Labor Party. It is called the Select Committee on Constitutional Development. It is unique in that it is the only committee that has equal numbers from the CLP and the Labor Party. This is a bipartisan issue. It is not a political argument between the 2 parties. We are both working together on this job. Our main job is to write a constitution for the Northern Territory. You know there has been a lot of arguments about whether the Northern Territory should become a state or whether it should not become a state or whether it should become one now or in 5 or 10 or 20 years time. We are not asking people to tell us whether they think we should become a state or not become a state. But we all must understand that one day, whether it is next year or in 5 years time or 10 years time or in 20 years time, the Northern Territory will be a state.

Before we can be a state, we have got to have our own constitution just as, when you formed the Barunga-Wugularr Community Government Council here, the first thing you had to do was to sit down and work out the constitution, how you wanted it to work, who would be elected to it, how many people and what sort of things you would do. You write your constitution before you start saying: 'Do I want to do this now or later or whenever?'

It is the same thing with becoming a state. Before we can even think about that, we have got to say: 'What sort of a place do we want? How do we want the Northern Territory? What do we want it to be like for our children and for our children's children? How do we want to set a society? How do we develop a community so that all the people can live together? The way to do that is in the words you put into your constitution. That gives you the framework, the law. This becomes the people's law for everybody in the Northern Territory. It says what the government can do and what the government cannot do. Australia as a whole has got its own constitution and each of the states have got their constitutions. The Northern Territory has not got one yet. So our job is to start to work to write this. It will take a long time. If it was done very quickly, it would take at least 3 years from now. That is if we are quick. It is not a rush job. It is steady. We have put a lot of work in for nearly 2 or 3 years now, just doing some research and doing our homework. We produced a book like that in 1987. It is a fairly thick book. It is called 'A Discussion Paper on a Proposed New State Constitution' and it gives all sorts of ideas on the sorts of things that might be able to go into a constitution and some other information that you need to know about. It puts some ideas as arguments. Some of these things in here people think are good and other people think are bad. We have not said that we believe this or that this is what you should do. We have put in things we believe in, things we do not believe in but we have put everything we can in front of the people so that, in the end, the people themselves will decide what they want in their own constitution. That is the way it should be.

Now that is a very heavy book to read. In nearly 2 years, very few people have sat down and read that. What we did was to produce this which is a bit easier to read. It just covers the main points and it explains a bit about some of the general things that go into a constitution. It asks questions. Should there be some protection in the constitution for community government and local government? That is one sort of question. Do you think the new constitution should say something about the courts and the work of judges? Those are the sorts of things you might want to put into the constitution. In the new state, what would be the role of Administrator who would become a Governor? What sort of powers should he have? What sort of powers should the parliament have? Do you think the ministers should all come from the elected people? Or should we follow the American example and appoint non-elected people as ministers? It opens all those questions up.

It asks some questions that have been raised with us in respect of Aboriginal people. For example, do you think there should be some provision in here to deal with land rights? Should there be some protective mechanism built into the constitution to protect the land rights and, if so, how? Should there be some special provisions in the constitution recognising the rights and privileges of Aboriginal people in the new state? This has not been done in Australia for 100 years. We can talk about all those things. As a community, Aboriginal people and non-Aboriginal people, we can work towards developing these sorts of laws, these rules, for the Northern Territory for everybody. We can determine how we want our Northern Territory to be in the future, how everyone will have a place, how everyone will have their rights and their responsibilities to make a place where maybe we can all work and live together. That is what we are trying to write.

We have produced this to give you information to think. You will see advertisements on television saying the same thing. We want you to think about the questions that are raised here, talk among your community about it, get your ideas so that you have your say to us about what you think this should say and we are doing that all round the Northern Territory. We have virtually got to bring those ideas together and we will prepare a draft constitution.

We will then also make some recommendations and suggestions on forming a giant committee of Northern Territory people which will be called a constitutional convention. It is like when you were putting your community government council together. You had some people meet and they talked and argued about what sort of things would go into the constitution, didn't you? When you sorted out what you thought, you went and put it to a vote of the people and the people made the final decision. Well, we are preparing this and then we will put it to that big committee. We are asking you how you think that should be set up. How many people should be on it? Should they be elected? Should they be appointed? Do you make sure you have Aboriginal representation? Do you have women's representation? Do you have representation from central Australia and the Gulf country and the western desert country and the Top End? How do you put that together? How many people should be on it?

That committee will take our work, all these papers and all the things that people put to us and our suggestions, and it will go through it. It will say that it does not like this or that and it will prepare a final draft which is what is called a recommended constitution and that will be put to the vote of all the people of the Northern Territory. That is why it is going to take a long time, isn't it? But, if we start working now, we can start thinking it through. We have got to start one day. Today is as good a day as any to start thinking about it. And maybe, in doing that, we can sort out a lot of the differences that are in the Territory now and get people to start working together for our common future and I know we all want that. What I am here for today is to tell you what we are doing, answer any questions you might have on any issues you want to raise, talk about it. Maybe you have some ideas now that you want to tell us about. It really is important for everybody that you take the opportunity and have your say about this because everyone is going to be affected by it. That is a lot to say in one go, isn't it?

Mr FORDIMAIL: Yes, it is a lot all right. Some meetings we had here we could not sit down. I think it is, like you said, very hard for us to grab hold of it and put in this paper what we feel about a few things of our own decisions - for example, about the Land Rights Act. The land rights is what some people may be worried about - what is going to happen if it becomes a state.

Mr HATTON: That is the important one and I know that is probably the most important issue in the Aboriginal communities. The committee has also got other books out and we can provide copies for you. One is on land matters and statehood. I know that is important. It deals with a lot of the issues relating to the Land Rights Act. How can you guarantee that land rights will continue and that you will keep the land that you own now? How do you go about ensuring that? I said to another Aboriginal community earlier this week that it is true that most Aboriginal people just do not trust us to honour our word and so how do you build in that protection? That is fair enough, but let's think about that.

We had a long talk about national parks, right? How do we handle the national parks like Kakadu and Uluru and other areas? Now you know that, in the end, no matter what we think or thought about who should own national parks, we can reach agreement in respect of Aboriginal land and national parks. We have done that. There are other areas where it is not Aboriginal land under the Land Rights Act but where we are still going into joint management with Aboriginal people, in relation to Gregory National Park and Keep River and other parks. We were sitting down and working out joint management agreements with them as well. There are some questions there that need to be talked about. And another one is important to you right now - mining, minerals and energy on statehood. But there are discussion papers on it. They are papers that, as a community, you really ought to be talking about. And you should also talk about these sorts of things and the constitution. How do you put the building blocks in place? How do you build the first foundation stage of the main law? The main law is your constitution and you build up from there. It must be and it will be the people's law for all the people of the Northern Territory, to be written by the people on how we are going to live together.

Mr KENNEDY: You said these other states. Do they have land rights?

Mr HATTON: Different states have different sorts of land rights. They are all run by the state government, not the federal government. The Northern Territory is the only place where the federal government has a Land Rights Act. In South Australia, there is one for the Pitjantjatjara country. There are 2 or 3 Land Rights Acts in South Australia. In Western Australia, they do not have a Land Rights Act but they provided land in long-term lease to Aboriginal people. In Queensland, I think the system is they have a lease in perpetuity on Aboriginal land. New South Wales has got a Land

Rights Act but they have only got little pockets of land. They have got hundreds of different pieces of land but they are all really small, not like in the Northern Territory where there are very big blocks of land where the traditional country was. In New South Wales, it might only be 10 square miles.

Mr KENNEDY: They are having problems though.

Mr HATTON: Yes, there are all sorts of arguments and ways round. We have got the start now. We have got a Land Rights Act in place and most of the land available for land claim is either under claim or is now Aboriginal land, isn't it? Also Aboriginal people in the Territory are different than in other parts of Australia in that here you have retained your culture and your language much more. You have got an integrity of your community here that is lost in places like New South Wales and Victoria. You know that when you go talk to them. How do we ensure that you maintain your culture, your language and your heritage? And a lot of that has to do with your land. But, how do you also build your future? How do you want to do that? All we are saying on the land thing is that we want to sit down with the Aboriginal people and ask those questions in this process. That is why it is not going to be a quick job. Do you think that is worth while doing?

Mr ANGUS: How does the state finance itself with a population like the Territory's

Mr HATTON: We are financed as if we were a state now. That is one of the great shocks to everybody when I say that. Everyone thinks we get some special money from Canberra because we are territory. We used to but we don't any more. That stopped completely on 1 July 1988. From that day forward, our money from Canberra came out of what they call the Commonwealth states tax-sharing pool. That is a pool of money that the Commonwealth government spreads out among all the states and our money comes out of that same pool of money, the same as New South Wales and Victoria. The way that they calculate our share of it is to use a series of formulas. The formula they use for us is exactly the same as the one they use for New South Wales and Victoria and Tasmania and Western Australia and everybody else. So there are no special deals any more. If you think about it, we have got a parliament in the Northern Territory and we have got the public service, the schools, the health services, the police and community development and local government. All those are in place now throughout the Territory, aren't they? So you have got the administration there already. We have got all the court systems right through to a Court of Appeal here already. All the structure is already here.

We charge the same taxes as they charge in the states now. The money we get from Canberra is the same. Our taxes that we charge are the same. Our basic setup is the same. And it is not worked on how big the population is. The whole reason for having a federation in Australia is that we say that, no matter where you live in Australia, you should get access to the same standard of government services and government facilities as far as possible. That is the reason for federation. And the Grants Commission works out that, to provide that schooling, health and policing and all those things to a reasonable level, it is going to cost you that much money. Now, if you charge all these taxes, how much can you raise? They pay you the difference. They do that in New South Wales. New South Wales gets 60% of its money from Canberra. So does Victoria. Now we get just over 70% of our money but Tasmania gets nearly 70%. So that is not unusual.

And you are paying taxes. You are paying personal income tax. Every time you buy something in a shop, you are paying sales tax. If you have a beer, you are paying excise duty to the federal government. If you buy petrol, you pay money into the federal government. You are paying import duty through the goods you buy. You go and buy a car and I think that 80%, \$80 out of every \$100 for that car you buy, goes to the federal government. Now what they do is they collect all that and they pay some of it back. And they do it to us and to all the states. So the answer is that it will not have an effect. Just the same as if we got the royalties coming in from offshore oil and gas or from the uranium mines like Ranger, that would increase our revenue-raising so they would take a bit off there so it would end up the same amount of money. We are not going to get a bonanza out of it and we are not going to get extra money either. The only way we will get extra money to spend is if we grow and build our economy.

Mr HOLMES: So why then do we need statehood?

Mr HATTON: Well, it is having a say in decision-making over your own life. It is like going from childhood to adolescence to adulthood. Now I do not know how you put that in any simpler words. It is having the right to make decisions for yourself that affect your life. When you are a child, your parents do it for you. In adolescence, you start to test your wings a bit, but you have still got someone to protect you and look after you and eventually you have to take a step, become an adult and take control of your own life. We are still somewhere in that adolescence area, halfway between childhood and adulthood as a community.

Mr HOLMES: But they are saying they are having problems with the population in the Northern Territory.

Mr HATTON: Yes, we had. Statehood is not going to cure the cycle, the ups and downs of economic performance. It will not cure that. If you get a downturn in the economy in Australia, in the world, it is going to affect here just the same as everywhere else. The question is your right to decide how to handle that.

Mr HOLMES: So then, there are a lot of people coming and going from the Northern Territory. If we go to statehood and people are going to lose, through statehood, their district allowance and their tax zone ...

Mr HATTON: But not because of that.

Mr HOLMES: But that is going to go.

Mr HATTON: Why?

Mr HOLMES: Well that is just what I was told ...

Mr HATTON: It has already gone and we are not a state.

Mr HOLMES: But that means less people are going to be inclined to stay here or even to come here.

Mr HATTON: The evidence is showing exactly the opposite. In fact in the public service, there has been a dramatic increase in the stability in the last 3 years. The turnover has dropped right off.

Mr HOLMES: The population is going backwards.

Mr HATTON: It went backwards in 1987-88 because we had a 15% cut in government budgets. In 2 years, in that process, with all of the special money going out of the system and coming back to being funded like a state, we had 5% taken out in 1986 and 10% in 1987. That hurt. You remember the pain that you went through, the cuts in capital works, the arguments over public service conditions, the reductions in the size of the public service right through the system. If you pull 15% of the money out, and it causes a ripple through the economy. You can also see now, since the earlier part of 1988, employment has been growing. The ABS is now recording population increases as of last year and therefore the turnaround has occurred. Underlying that fall in public spending, we still had strong growth in tourism, in pastoralism, in mining, in the real wealth-creating industries, but the effect of their growth was being counteracted by the nosedive in public spending. We have stopped the dropping off in public spending now. The other growth is showing through again. It has been showing since early 1988, very tentatively, but there is a consistent upswing since then.

Mr HOLMES: The ACT has 250 000 people and it has only just decided to go ahead with self-government and even that was ...

Mr HATTON: It is thrust on the ACT.

Mr HOLMES: Yes, but all this is dependent on statehood, isn't it? The constitution.

Mr HATTON: Yes.

Mr HOLMES: If we do not go to statehood, then you don't need a constitution.

Mr HATTON: You need to accept the fact that, whether it is now or in 10 years time or at some time, it will happen. It is not an if or a maybe. It will happen. We can argue about when it happens, but it is going to happen. There is no question about that. I do not think anyone denies that.

Mr HOLMES: But, I was just thinking that, if the population is not going increase, it probably might not happen for a very long time.

Mr HATTON: I find that an irrelevance. You might have difficulty accepting my view on that. I maintain that the size of the population has got nothing to do with it. We are larger now than Western Australia when it got statehood and, in those days, they did not have telephones, motor vehicles, sealed roads, aeroplanes and therefore the ability to govern was dramatically reduced by the lack of technology. We have a much better ability to govern now and we have the

infrastructure in place now. The question is whether you as an Australian want the same rights as other Australians. That is what the question is because that is the fundamental change.

Mr ANGUS: Is that going to help the consumer though? We are more isolated than the bigger states and we pay higher electricity rates and higher food costs. I wonder whether those will come down.

Mr HATTON: Not because of statehood. There is not a pot of gold there and I am not trying to sell that to you. Statehood is not about whether you can reduce your electricity prices, whether you can reduce the relative cost of food and housing, get decent housing and sewerage and all those sort of things to improve your quality of life. That will depend on the government's work, the growth in our own tax base and opening of opportunities for you to develop your own industry and your own future. You have got to create wealth before you can spend it. That is the case that we are faced with now and, whether or not we become a state, we still have to fight through that. If we want to cut electricity prices, the first thing that we have got to do is sell more electricity or sell more gas. That is the only chance that we have got of doing it. But we are going to have to do that whether or not we become a state. Do you understand that? It does not affect those questions. What it does affect is some - perhaps Graham, would you like to pick up a few of the general issues that would be dealt with if we became a state?

Mr NICHOLSON: Well, if you are a state, the federal Constitution provides a number of rights and responsibilities which at the moment do not apply to people in the Northern Territory. One example that you gave the other day was the acquisition of property. If you own property in a state - this is just one example - the Commonwealth government cannot come along and acquire the property and then pay no compensation whether you are a private citizen or a state government.

Mr HATTON: It has got to pay for it.

Mr NICHOLSON: It has got to pay a fair compensation. That is one example of a right that does not apply if you live in the Northern Territory, whether you are a private citizen or a government. But, that even extends through to land rights because there is no constitutional guarantee that would prevent the Commonwealth government from acquiring any property, including Aboriginal property, for no compensation. That is one right that you have in a state under the Commonwealth Constitution that you do not have in the Territory.

Thus, there are those sort of rights and there are a number of others. The Commonwealth Constitution does not have a Bill of Rights like they do in America, but it does have certain rights and obligations. The other aspect is that, if you are a state, then you have your own constitution. You can entrench certain rights into your own state constitution that the government has to comply with, whether it is commonwealth or state. For example, you could build into your own state constitution certain rights that would prevent the state government from certain things. For example, you might want to entrench some rights in respect of Aboriginal land which would put it beyond the scope of the northern parliament to interfere with.

Mr HATTON: The reality is that, under the federal Land Rights Act now, a federal government one day could turn around and repeal that act and all Aboriginal land as it is now would cease to exist under European law. The federal government could do that because it is not in the constitution. I do not believe that it will do that. I am not suggesting that it would, but it has the power to do it. If we pass a law in the Northern Territory, the Commonwealth government has the power to disallow that law within 6 months. It has never been game to do it, but it took us right up to the line a couple of times. That happened in respect of a debate over the Criminal Code, didn't it? It threatened to disallow the law but, in the end, it was not game to do it. It was bluff.

If you want an example of where your potential rights are at risk, do you know that all the functions or the powers of the Northern Territory government come from a federal act of parliament called the Self-Government Act. All of our functions are in regulations under that act. Please correct me if I am wrong. I am right so far?

Mr NICHOLSON: Yes. The whole existence of the Territory government depends on the Self-Government Act.

Mr HATTON: If they repeal the Self-Government Act, the entire Northern Territory government could be closed down like that, just by repealing it and you would have no vote for anyone. Some people might think it is a good thing, but I don't. I think self-government has been good for the Northern Territory.

Equally, simply by repealing a regulation, by taking one line out of a regulation under a federal act of parliament, it could wipe out the entire schooling and education system in the Northern Territory. That system has no no protection because we are a territory.

Mr ANGUS: What about the treaty that is drawn up on Aboriginal land?

Mr HATTON: What treaty? The Barunga statement? That is not a treaty.

Mr ANGUS: No, the treaty that land rights and land claims lie under.

Mr HATTON: There is no treaty. There is a Land Rights Act. There is no treaty. There has been talk about whether there should be a treaty, but the federal government could do that anyway. What we are saying is that the federal government retains power here, the same as it does for everywhere else in Australia, but why should that power be different here from everywhere else in Australia. That is all we are saying. Why can't we be treated the same. Why is that you could move to Queensland and, simply because you moved across the border, your rights change. If you just came here from Queensland, why is it that you have your rights stripped off you simply because you took a job here? Is that right?

There are a million questions to work through and I am not suggesting it is easy. It is not going to be quick. We talk about Aboriginal self-determination, but what about Northern Territory self-determination? Those are the questions that are being asked. It is not money. There will not be any extra money for us and there will not be less either. The federal government would still have its own right in constitutional powers, like it has in the states. If the federal government entered into an Aboriginal treaty with Aboriginal people throughout the whole of Australia, that would apply here just the same as everywhere else.

The question is the entrenchment of your rights that statehood could give you. But, we cannot even think about that until we have done this job. In doing this job, you ask yourself: 'What sort of protection do I want? What sort of rights do I want to build for myself and for the community in a constitution? How do I protect my rights?' It is quite possible that statehood could be the best way to absolutely secure land rights if it is done in a particular way. Do you accept that?

Mr HOLMES: Yes, but there are no guarantees if you don't.

Mr HATTON: That is what we are here talking about. That is why it is important that people have their say. There are no guarantees of anything. But also there is nothing in front of us saying what is going to happen. We are asking for people to put things on the table.

Mr HOLMES: It also could be worse.

Mr HATTON: If, on balance, the community at large believes it is going to be worse, it will say no. Let us give them a chance to work through to that, to have the right to say yes or no and to have a think about what they want. If we do the job properly, they will say yes because we have found the answer for what they want. Now, we are asking for yes for a constitution, not yes for statehood because that is a separate question.

Mr GRAY: With Aboriginal rights, your rights, your customary law and the way that you want to live and things that you want to do, if you talk about a treaty, say like the federal government wants to make a treaty with Aboriginal people, it will make a treaty but it will be a law of parliament and that is a law that parliament can change if it wants to. The constitution is the people's law and it needs the people to change that constitution. It cannot be done by parliament alone unless you want parliament to do that. It is up to you how you want to set this law up. Your rights and your protections can be put into that constitution, something that the Australian Constitution even or other state constitutions do not have. This constitution can recognise your rights. There is one aspect that other Australian states just do not have. Things that you want to have in this thing to control your life and the way you want your children to live, you can do it. You can have a chance for this and it is probably the only place in Australia where you can do it.

Mr HATTON: And when you write it, you also write how you go about making a change if there is ever to be a change in the future. You can write those rules in too. The issues of entrenchment can be looked at, the stages of entrenchment and the different components. It really is a blank sheet of paper that people can write on, subject only to the Australian Constitution. For example, you cannot break away from the monarchical system of government. Whether we want to or not, we cannot. That is a decision for the whole of Australia to make. It is those sorts of limitations that I was talking about.

Mr HOLMES: What does that mean? That we have to have a Governor?

Mr HATTON: You have got to have a Governor because the Australian Constitution requires it.

Mr HOLMES: What about an Upper House?

Mr HATTON: You do not have to have an Upper House. One suggestion that has been made is that perhaps we should look at having guaranteed Aboriginal representation in the parliament. I have been absolutely against an Upper House and I think all of us have been. But, someone said that we should look at a guaranteed Aboriginal representation, 2 or 3 or whatever seats, in the parliament. You then have to ask yourself how you would do that. You look at the New Zealand experience which has guaranteed Maori representation in its parliament. The catch there is that each aboriginal person has to choose between voting for the Maori representative or the general representative. He cannot be on both rolls; he does not get 2 votes. He can vote for the Maori candidate or for a general candidate in the electorate who may or may not be a Maori. You have that choice but you cannot vote in both.

There could be a system where you have your normal elections for the electorates - Wes Lanhupuy is the member for here. Then, you could have an Upper House or a House of review that had that sort of proportional representation of the population. I dread the thought of trying to run it together. I do not know the answer. There are arguments for and against all those sorts of issues and that is what we as a community should be talking through. Remember that, whatever comes out, will need to have the support of the non-Aboriginal population as much as it needs to have the support of the Aboriginal population. We have got to think of both sides of the fence in the process.

Mr WHITE: Steve, you said that the feeling within the committee is against an Upper House. What is the argument with that?

Mr HATTON: What is the argument for an Upper House?

Mr WHITE: I was wondering why you are opposing it?

Mr HATTON: The Upper Houses are anachronistic leftovers from the days when the average citizen never got a vote. It was where all the squatters maintained control over the lives of the populace. That is where the Upper Houses came from.

Mr WHITE: Yes, I am aware of that. But, the argument for them obviously, and it is only one argument, is that an Upper House provides a House of review.

Mr HATTON: The process has to be very carefully looked at. The argument in the federal parliament where they have the Senate and the House of Representatives was a very straightforward argument. You have the people's House where each electorate, which are all about the same size, votes in a member. There are 154 of them. That is all very well but most of the Australian people live between Sydney and Melbourne, in that little corner in the south-east. If I happen to live in Darwin or Cairns or Western Australia, which has only a small proportion of the population, I would be forgotten because all the politicians will come from down there. Politicians, being what they are, will want to be re-elected and therefore they would want to spend money where the votes are and the whole of Australia would not be developed properly. To overcome that imbalance, the Senate was created so that the states had equal representation. That is why Tasmania, which has only 450 000 people has 12 Senators, and New South Wales, with 5 million people, also has 12 Senators. That is designed to overcome the fact that most of the Australian population lives in that little corner and to ensure that they think of the needs of the whole of Australia. That is the only argument I have ever seen for an Upper House - a review process to force the government to think right across the spectrum of its responsibility.

Mr WHITE: You do not think there is a place for an overall House of review, not one representing, for example, state rights but one that may act as that a House of review over the Assembly, the Lower House.

Mr HATTON: It could be. To use the same analogy that I have for the federal parliament, is there an argument for dividing the Territory up into districts by size of land area so that each district has a member in the House of review, irrespective of how many people live there?

Mr WHITE: So you are talking about having 2 sets of electors.

Mr HATTON: Well, you would have one like we have got now and another one over the top. But, to force increased representation for the remote and sparsely populated parts of the Territory would force the government then to ensure it has the balancing act of allocation of resources to look after the whole area.

Mr WHITE: There is another way around it, isn't there? That would be to have 1 electorate for the whole Territory and have people elected from within that single electorate. Of course, the difficulty for the party political system is that a large electorate like that tends to turn in a large number of independent members.

Mr HATTON: Yes, look at Canberra. In Canberra, they have an unworkable parliament. That is one of the great problems with that system.

Mr WHITE: A lot of people would not see that as a problem. A lot of people would see that as a definite advantage.

Mr HATTON: Can I speak from a politician's point of view? I think it would be great if you were high on the ticket within your party so that you would get the first flow of votes from your party, like they do in the Senate ticket, and, once you are in there, you are not answerable to any particular electorate. If there are 25 of us representing Beswick, which one are you going to pick on when something goes wrong? It was the other guy who did not do it, not me. How do you nail someone down to say: 'You have got to look after me. I elected you to look after my area'. That is the trouble with multiple member electorates. We have it in Darwin now with the council. There are 3 alderman in each ward and you cannot get any one of them to do anything because there are another 2 to blame as well. There is a lot to be said for single member electorates from the voter's point of view.

Mr WHITE: I would not advocate that for a Lower House. It is merely a suggestion for one way of ...

Mr HATTON: You mean a House of review?.

Mr WHITE: Yes, certainly.

Mr HATTON: Every option is there. What I think is not going to determine what goes into it. It is what the community as a whole thinks. I suspect the community as a whole will say that it does not want 2 Houses of parliament. I have never heard anyone promote the view that he wants an Upper House.

There are an awful lot of questions you can think of. You can really brainstorm on any combination you like. It will create the type of society we want to have, the shape of it. I do not think there is a more important job that you can do.

Mr WILSON: Steve, it is inevitable, as you say, that the Territory will get statehood, whether it be in 20 years, 30 years or whatever. Am I to take it then that a decision has been made that a constitution will be written for that event.

Mr HATTON: Yes, it is for that event. You cannot even consider the question of when we would become a state until you have that document, that foundation statement.

Mr WILSON: Therefore, assuming it was to be in, say, 5 years time, wouldn't it be just as logical to take, for example, the constitution of a state like Queensland which, in some respects, is compatible with the Territory in locale, population etc, and then rewrite that to suit the peculiarities of the Territory?

Mr HATTON: In fact, we went through all of the state constitutions. Remember that they were written in last century and reflect the attitudes that existed last century. Graham is the person who did the research. Perhaps I can throw that over to you, Graham.

Mr NICHOLSON: They are really colonial constitutions, not state constitutions. They were drawn up in the colonies before Australia even existed. They have not basically changed since the last century. They are still basically the same shape. Most of them are only ordinary acts of parliament. They do not have a special entrenched status like, for example, with the Commonwealth Constitution. We went through the whole lot and we came to the conclusion that they did not offer a suitable model for a late 20th century society with quite new problems and new considerations of a multicultural society.

Mr WILSON: Surely there would be elements of those constitutions that could be updated.

Mr NICHOLSON: Well, it is not our job to update the states.

Mr WILSON: No, what I am saying is using them as a guideline.

Mr NICHOLSON: Well, certainly I think we have already done that. I produced a volume about that thick comparing them. I think there are provisions along the lines of the traditional Westminster system that we could draw on, but I do not think we would want to be limited to that. We would want to look at, say, some of the new emerging countries of the Pacific and what is happening in America and Canada. We would want to look at it fairly broadly.

Mr HATTON: You would find a lot of those sorts of things in here now. We will be leaving some of these things behind for you.

Mr NICHOLSON: You mentioned Queensland. Queensland is a bit different in some ways. For example, it does not have a comprehensive Land Rights Act which would have quite a significant impact on any constitution.

Mr WILSON: Obviously, I do not mean it is exactly the same as the Territory because there are no 2 places the same. I was just throwing the point forward that, in order to save time and expense, that could be the way to travel.

Mr HATTON: You could work off the Self-Government Act as a basis too because it was structured for the Territory. That is the closest thing that we have got to a constitution now and that has formed part of the basis for what we have put. But, most of that work is done now. You can pick that up and go through it and start to see the issues there. It gives you a chance to think about them.

Mr NICHOLSON: I think we could have done it on the cheap but the thing is we decided not to do that. We decided to do it by consultative process over a long period of time which is basically what was done in Papua New Guinea when it drew up its constitution. Our Self-Government Act was drawn up in Canberra with virtually no reference to the Territory at all. There is very little consultation with the Territory at all. It was just plonked on us. We have opted to go the other way. It might be a bit more expensive but at least it is a consultative process which let's everybody have a say in it.

Mr WILSON: Who will decide the time that we want statehood?

Mr HATTON: First of all, there has to be a clear picture of what statehood is going to mean. The first thing is that the people of the Northern Territory have to say that they want it. Once the Territory people want it, it will be a battle, interstate and with the federal parliament as to when and under what conditions.

There is another book that we have left there for you on the options for the grant of statehood. That deals with some of those sorts of questions. Under section 121 of the Constitution, the federal parliament can accept new states under such terms and conditions as it determines. We will probably be in and out of the High Court 20 times between now and the day we become a state, as they try to sort it out. It has never been done before in Australia. We are testing out for the first time areas of the Australian Constitution that have never been used before and therefore the lawyers and judges will have to try to interpret what it means and what the federal parliament's powers are or are not.

To say the parliament can accept new states under such terms and conditions as it deems appropriate sounds as though it can do what it likes, but it may not be that way. There is another view that says a state is a state is a state, that you cannot be half a state, that you are either a state or you are not. Does the parliament have power to deny to a new state some of the constitutional rights or powers of the other states? It may not be able to say that. The ways you go about handling it administratively might be different but the constitutional powers might be the same. The division of powers between the federal government and state might be the same even though the way you go about doing it might be different. For example, with industrial relations, you could have a joint commission rather than 2 separate ones. There are those sorts of things. It will be a lot of work to go through them.

Mr WILSON: The compilation of the constitution would be an ongoing problem in itself.

Mr NICHOLSON: Yes.

Mr WILSON: If statehood is, say, 20 years away, my grandchildren might want to have some say in the constitution and possibly they would be the people deciding whether or not we want statehood.

Mr HATTON: I believe that, once the community has decided what sort of a society it wants, the next thing it will ask is when it can have it. If it does not, at least we will have a document that will be adjusted as generations change. I hate to think that we are talking about generations of people before we become a state.

Mr NICHOLSON: There is no suggestion that the constitution will be frozen. We anticipate that it will have some amendment ability in it but it may be difficult to change. Thus, there would be an ongoing debate as to whether you want changes but it may take a while, with referendums and all sorts of things, to change it.

Mr WILSON: Do you have any anticipated time that you would like to see a constitution written up?

Mr HATTON: Under our terms of reference, we are required to report to parliament by late May next year on our part of the job. Prior to that determination, we were required to report back to parliament by March 1989 and, before that, it was March 1988. However, we are working on the basis of trying to do the job properly rather than trying to do it to a fixed time frame. Nevertheless, we would like to progress along the road. We are going out now to talk to the communities and get people thinking about it. We propose that, later this year, we will come round again and perhaps not on short trips like this. My suggestion is that we try to organise well in advance so whole districts can come together and spend 1 day or 2 or 3 days talking about issues that people have thought about and start to get the submissions and the views coming to us. We could get that done in the second half of this year, in October/November/December. We could see as many people but they would come to one central location rather than our going to 20 places. Then, if we could take the results of that and spend the first months of next year writing it up, maybe we would be in a position to put some views forward to the parliament in late April next year.

We need to be able to say to the parliament: 'Here are the research papers that we have done. Here are the transcripts of all the evidence that we have received; it is all published. Here are our recommendations as to why we recommend this document. We recommend that there be now formed a convention of Territorians, being 63 people made up of 20 elected from these different districts and x number representing the Aboriginal communities who shall be elected at a meeting of representatives of all Aboriginal communities, that there should be x number of women representatives and so on. There should be representatives from each local government and each community government council'. If the parliament agrees, we will go ahead and form that convention which will take a year or 2 to work through all the papers. The representatives will go backwards and forwards to their constituencies and develop the constitution. When they have finished their work, they will say: 'We have gone through what the parliament had. We like a lot of it. There are a couple of things that we did not like and we changed them. We recommend that this document be put to a vote of the people'. Then, all the people in the Territory would vote yes or no on it. That is not going to be a quick process, is it?

Mr WILSON: No, definitely not. It will be a very costly exercise as well. I would hate to think that, come the crunch, no one wants statehood.

Mr HATTON: Wes, I have been saying consistently that the reality is that it is going to happen. The question is not if, but when. Do you dispute that?

Mr LANHUPUY: No.

Mr HATTON: Well, have I given you something to think about?

Mr FORDIMAIL: Yes, something to think about all right. Do you like to suggest that everyone get together and maybe on the next round we can all sit down and talk about it. People from all the outstations can come here and we will have a big meeting, eh?

Mr HATTON: Yes, but talk about it among yourselves first.

Mr FORDIMAIL: Yes, we got to talk about that first.

Mr HATTON: And if you have some questions coming out of that and you would like someone to come out to explain things to you, that is fine too. We organise someone. And I do not mean a politician. We will get Graham or one of your people to come and explain what these things mean. There is a free phone hooked up. Rick Gray is the executive officer for this committee. He works in the parliament and he and his assistant, who is starting on Monday I believe, will be able to take any messages and chase up answers for you.

Thanks for meeting with us. I appreciate the opportunity to catch up with you and talk about it. I hope we can keep talking about it and keep discussing it right across the community and work towards this. We will leave all those books behind for you.