



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Sessional Committee on Constitutional Development

Foundations for a Common Future:

**The Report
on Paragraph 1(a) of the Committee's
Terms of Reference
on a
Final Draft Constitution
for the Northern Territory**

**Volume 5 - Part A —
Hansard Transcripts of Public Hearings**

November 1996

Presented and
Ordered to be Printed
by the Legislative
Assembly of the
Northern Territory on
27 November 1996



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PLEASE NOTE:

- The Transcripts of Hearings in this Volume have been edited for consistency purposes. The substantial content of the Hearings have not been changed.
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CHAPTER 1
HANSARD TRANSCRIPTS OF PUBLIC HEARINGS
ALICE SPRINGS REGION

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

ALICE SPRINGS — Tuesday 5 July 1988

PRESENT:—

Committee:

Mr Hatton (Chairman)
Mr Ede
Mr Harris
Mr Lanhupuy
Mr Setter

Absent (overseas):

Mr Smith

Appearing before the committee -

Mr Neil BELL

Mr Vince FORRESTER
Mr Ian YUELL
Mayor Leslie OLDFIELD
Mr Bob KENNEDY
Ms Gail PETTY

EDITED TRANSCRIPT.

Issued: 12 August 1988

Mr HATTON: Ladies and gentlemen, I formally open this sitting of the Select Committee on Constitutional Development and I would like to make some opening remarks. The purpose of our visiting the various communities in the Northern Territory is to provide an opportunity, firstly, for the broad community to become aware of a number of the issues associated with the work of the committee and, secondly, to give members of the community the opportunity to express their views on issues of concern to them.

Before proceeding any further, I would like to indicate that we received written submissions from the Tangentyere Council and representatives of the council were to have made some verbal submissions in respect of those written submissions. However, we have been advised this morning that, unfortunately, representatives of the council are unable to attend this hearing. We certainly hope to catch up with the Tangentyere Council at later hearings.

By visiting the various communities in the Territory, the committee provides an opportunity for you, the members of the public, to raise any issues that you may have in relation to the work of the committee. I propose that we now take the opportunity to do that. This parliamentary committee has been part of the overall activity associated with the movement towards statehood in the Northern Territory. Its principal role has been to work towards the development of a Northern Territory constitution. The reality is that the Northern Territory will become a state at some stage, whether that be next year or in 5 or 10 or 15 years time. As a state, we will need to develop our own constitution. A constitution is the foundation document of every society. Such a complex and vitally important task has not been undertaken in Australia for over 100 years.

This committee has been working for 2 years on this task and it has produced some documents which are now publicly available. One is called 'Options For A Grant of Statehood' which is Information Paper No 1. Another is a discussion paper on representation in a Territory constitutional convention. The most significant document, and the one which has taken the longest to prepare, is a discussion paper on a proposed state constitution for the Northern Territory. That document outlines why we need a constitution, the process of making a constitution and the various elements that could be included in such a constitution. Its purpose is not to stipulate what should or should not be included in a constitution. It is simply what it says it is: a discussion paper to get people thinking about issues such as the structure of the legislature, the role of the Administrator or Governor, the role of the judiciary or the court system, issues relating to the nature and frequency of elections and whether we should be concerned with matters such as the entrenchment of specific rights.

Particular issues that have been raised include the possible entrenchment of Aboriginal land rights in some form or another within the constitution. The discussion paper deals with the question of whether there should be, for example, a preamble or some constitutional recognition of the unique place that Aboriginals have in the Northern Territory as the original inhabitants of this country. It deals with issues associated with the subject of human rights and a wide range of other matters. We are not saying that these things should or should not be included in a constitution. What we are saying is that these issues have been raised and we are seeking the views of the community in respect of them. Another issue is the recognition of local government within a Northern Territory constitution.

The importance of consultation such as this lies in the fact that the structure of our constitution will fundamentally shape the sort of society that we will have in the future. The development of a constitution provides a vehicle for the community itself to indicate what sort of a society it wants in the future. It is a unique opportunity for the people to have a direct input into the fundamental shape and direction of the Northern Territory of the future. That ultimate ability for increased self-determination is something that will flow from statehood. I will be asking other members of the committee to comment on that a little later.

We have prepared this discussion paper on the development of a constitution and are now seeking the views of the community in relation to this document. On the basis of such consultation, it will be this committee's role to prepare a draft constitution for submission to the Legislative Assembly. If the draft constitution is approved by the Legislative Assembly, it will be presented, along with discussion documents and all other information that the committee has received, to the Northern Territory people at a constitutional convention. The role of that constitutional convention would be to prepare a recommended constitution that would be referred to a referendum of the Northern Territory people. That is the basic process that will be undertaken.

A question arises as to how a constitutional convention is to be structured. How large is it to be? Should its members be elected or appointed? Should there be some combination of elected and appointed people? How can we ensure that, as far as possible, the widest possible cross-section of the Northern Territory people is involved in the vital task of preparing a document that it believes will be acceptable to the total population? This is not an exercise for politicians alone; it must be a function of the entire Northern Territory community. There can be no task more important than the development of a Northern Territory constitution and we must involve the Northern Territory community as a whole in that process. It must become the people's constitution. The role of this committee, which includes members from both sides of the parliament, is to involve the Northern Territory people in this process.

I recognise the fact that many people here today perhaps will have more questions than answers or comments. Certainly, we are more than happy to receive any questions, comments, views or feelings so that we can take them into account. This is not the last time that the committee will be in Alice Springs. Hopefully, on this occasion, we will begin to stimulate people's thinking about the issues involved in a move to statehood. Firstly, I will ask Brian Ede if he wishes to raise any points.

Mr EDE: The major point that I would like to raise is that there is a difference between the timing of statehood - and most of the discussion in the community seems to revolve around this point - and the actual constitution itself. There are people who believe Australia should have a unitary system and that there should be no states but rather a federal government and some form of regional or local government. However, we have taken the view that, on a practical level, the movement towards that is not strong enough for us to decide that that is the way we should go and have no part in the constitutional development process. Thus, even though there are major differences of view within this committee and the parliament on the timing of statehood, we believe generally that there is more likelihood of our eventually achieving statehood than of achieving a unitary federal/regional system of government for Australia as a whole within the same time frame. Therefore, it would be remiss of us not to become involved in the development of a constitution

which will be the basis for statehood in the Northern Territory whether, as Steve said, it is 5, 15 or 50 years away. Once that decision is taken, it then becomes necessary for everybody, no matter what his belief on the timing of statehood may be, to become involved in the discussion on what form the constitution should take. As Steve said, the constitution will determine in many ways the form of the society in which we will live after statehood.

The possibilities are endless. With the notable exception of that in the United States, the constitutions drawn up in the latter half of last century in areas directly connected to Britain were basically a means of setting a structure in place. However, in more recent times, constitutions have been concerned with human rights and the balancing of various interests and powers in society. How do you deal with issues such as the ability of people to initiate legislation themselves? What are the powers of the community as against those of the parliament? Those are issues which we should take into account in this discussion. We should also examine the special nature of the Northern Territory itself. We need to examine the balances within our current system and determine which of those balances are simply a hangover from federal days and can be changed and which are a natural consequence of the makeup of the Northern Territory society and require special consideration.

Part of the role of this committee is examine what will occur once it has completed its task. I refer to such things as the constitutional convention. As Steve mentioned, there is the question of how that convention is to be constituted. Beyond the convention, there is the question of the referendum. Will a simple majority be sufficient for acceptance? Will it require an absolute majority? Will it require 75% or 80% or whatever for its adoption? How will we ensure that it has that broad acceptance? It is not the function of this committee, I believe, to look specifically at the timing of statehood.

There is also the question of the method of achieving statehood: whether we use section 121 of the Australian Constitution or whether we seek statehood by means of an amendment to the Australian Constitution. There are terms and conditions involved in proceeding under section 121. This is a matter of general interest in the community and people should not feel constrained from talking about whether or not we should accept statehood under section 121 whereby, currently, we have 2 Senators. Do we hold out for the Tasmanian situation? Tasmania was given a minimum number of House of Representative seats and the full number of Senators. On the other hand, should we work towards a formula which would achieve that within a time frame that is not directly related to population growth? Whilst such matters are not covered specifically in our terms of reference, they are matters on which have people have many ideas and we should take those on board as we travel around the Territory.

On this trip, we will be travelling up the Stuart Highway, out to Groote Eylandt and Nhulunbuy and then back to Darwin. Later, we will be visiting Aboriginal communities, starting in the Centre and moving north. Even after the completion of that program, I am quite sure we will not have sufficient information to be able to say that we know what the people of the Northern Territory think. In these early stages, I think we will find that people will tend to stand back, offer a few ideas and wait for more information. At present, we are finalising an information paper which will be distributed to communities. I think that the dissemination of much more information will be necessary. We need to develop people's ideas on the nature of a constitution and the possible

approaches. We do not want approach this in a narrow, blinkered way which would result in people adopting the minimum position or the lowest common denominator, if you like, because they do not have sufficient knowledge of what is possible. The process of developing the framework of our society and the laws that will govern it is an exciting one. I think that people should be encouraged to be adventurous and to examine boldly the possibilities of the society in which future generations of Territorians will live.

Mr SETTER: As we have gone down this path over the last couple of years, I have come to realise that the move towards statehood is very complex. I know that some people have become somewhat frustrated by the lack of progress. In fact, I heard Frank Alcorta say recently that the Northern Territory government has dropped statehood as an issue. I subsequently took Mr Alcorta to task on that because there has been an enormous amount of work done on this in the last couple of years. The evidence for this is the various documents that have been produced.

If you cast your mind back to the achievement of self-government in 1978, you would recall that many people in the community were not very happy about the move to self-government. Despite that, I think that everybody would admit that, in that last 10 years, we have made considerable progress on the basis of having a self-governing Northern Territory. However, in recent times, the advantages of the agreement at the time of self-government have been dissipated as circumstances have changed. As a result, the statehood option has now become far more attractive than it was 6 or 8 years ago when we had very generous funding arrangements, for example, under the Memorandum of Understanding with the Commonwealth. However, statehood offers us the opportunity to gain control over all those areas over which we currently do not have control. If we can achieve that, we can become more financially independent. At the moment, the Commonwealth provides 80% to 82% of our funding. I stand corrected; it provides 76% of our funding. I am very pleased to note that it is improving; that is a good sign. We need to be able to raise more from our local resources. I understand that all states receive the majority of their funding from the Commonwealth and the percentage varies from 55% to 76%. If we could gain control over all of our resources, we could raise much more revenue locally and that would give us a great deal more independence than we have at the moment.

Having said that, I must point out that it has been very necessary to research all of the implications of the move towards statehood. I pay tribute to the officers of this committee who have done the majority of that research over the last couple of years. Having done that, the committee is now undertaking a process of consultation with the community. As was pointed out a moment ago, we intend to visit all the communities in the Northern Territory by the end of this year in order to obtain feedback from the people in relation to this matter. It is one thing for the committee to discuss the matter in isolation and take advice from officers, but it another thing for it to visit the various communities and talk to the people. We are undertaking this exercise because it is very important that, when we approach Canberra with our proposal for statehood, it has the support of the majority of the Northern Territory community. If we do not have that support, it is most unlikely that the Commonwealth would listen to us. In order to gain that support, we need to consult with the people and convince them of the advantages that statehood will offer. That is what we are doing at the moment.

Mr HARRIS: Steve, basically, you and other committee members have outlined the present position and what this committee aims to achieve. Our terms of reference are specific in relation to the development of a constitution. I would like to take up some of the points that Brian Ede made because I think it behoves the committee to carry out its task in the best possible manner and to obtain as much input as possible from the community. We are moving around the Territory seeking the views and concerns of people in respect of the move towards statehood and how a constitution should be developed etc and my dilemma is that I am at a loss to know which is the best method of arousing people's interest.

For example, I have a question that I would like to ask of the people here today and perhaps someone may like to comment on it. How did you know the hearing was on today? Did you learn about it from the media or did someone tell you that there would be a committee hearing today? Did you hear about it from people who wish to appear before the committee or from people who have made submissions to the committee? It is very important that we try to make the people aware of the role of this committee, and that has been touched on this morning. We need to obtain a better method of attracting the interest of the public. The whole question of whether or not we should proceed to statehood is another issue, as Brian Ede has mentioned, and I think there is no question that the government believes firmly that the move to statehood has to come from the people. It is not a matter of ramming statehood down people's throats but rather a matter of informing them about the advantages that statehood can bring to the Northern Territory and of allaying any fears that they may have. For example, it has been claimed that statehood will cost us a fortune. That is a load of nonsense. However, such issues need to be discussed in the community.

I really would like to know how people became aware of today's hearing. Perhaps people might like to suggest methods by which the committee can engender greater public interest in its hearings. If we do not have input from the public, the constitution that is developed may not reflect the real wishes of the people. That is of vital importance to us.

Mr HATTON: Perhaps I could ask if anyone would like to answer Tom's question.

A PERSON: From the newspaper.

A PERSON: From a brochure in my letter box.

A PERSON: Legal Aid.

A PERSON: I saw the brochure and articles in the newspaper. As well as that, I was privileged enough to get a telephone call about it.

Mr HATTON: Do you have any particular questions?

A PERSON: Not at the moment. I think there are some issues in terms of what Tom was saying about getting the message out. There is a lot of confusion that a constitution automatically means statehood and statehood very quickly. I think perhaps that you need to get a bigger message out there.

The other issue is that it does not seem to be of real concern to the people and that it will all be decided by anonymous people. If you really want the community to become involved, you must ensure that people are made aware that their input is valid.

A PERSON: What is the average percentage of moneys that the states get from the Commonwealth?

Mr HATTON: It is about 60%.

A PERSON: So the Territory is not too far out of kilter.

Mr HATTON: No, particularly when you recognise certain facts. At the time of self-government, the Northern Territory was over 95% funded by the Commonwealth. Over the course of the last 10 years, as we have built up our own industry and population, we have developed our tax base which is now in line with the sort of tax base that exists in the rest of Australia. The level and types of taxes and charges that are being levied are roughly in line with those in the states. The significant exception is electricity charges which are higher than those in the rest of Australia even though those charges are still heavily subsidised. We have a major task to overcome that by finding ways of using much more energy in the form of either gas or electricity. With that single exception, our charges are about in the middle range of the charges applied elsewhere in Australia. Because we now have more people and more industry, we are able to raise about 25% of our total funding.

There are some sources from which states derive revenue that we are unable to obtain funding from directly. An example is the royalties on mining by Nabalco in Gove because an agreement existed before self-government. This year will be the first year that the Groote Eylandt Mining Company pays any royalties to the Northern Territory government. We receive no royalties from uranium because the Commonwealth retained ownership of uranium. In fact, any royalties on minerals extracted from land that the Commonwealth re-acquired in the Kakadu National Park and Alligator Rivers region will flow to the Commonwealth whilst we are a territory. The Commonwealth retains royalties on all off-shore oil and gas whereas, everywhere else in Australia, all such payments are made to the state governments. We recover some of that money as part of a direct grant from the Commonwealth. That is part of the specific payments that are made to the Northern Territory and are part of our 76% funding. There is that confusion.

The critical point is that the Memorandum of Understanding no longer exists. We are now part of the Commonwealth-states tax-sharing pool. Our share of that pool is assessed on exactly the same formula and methodology as the shares of the states are assessed. Our general revenue grants, special purpose payments, capital grants and loans are determined on exactly the same basis as those of the states. What are called the global limits of our semi-government loans are determined by the federal Treasurer. We are not a member of the Loans Council because we are a territory. Thus, there are no areas remaining whereby we are funded differently from the states except that we are denied some of the revenue-raising sources that are available to the states.

It is wrong to assume that that formula will somehow change simply because of the granting of statehood. It is true that that could have been argued 3 years ago when we had the Memorandum of Understanding which provided a guaranteed base with automatic adjustments for

population and CPI. It was true even last year to the extent that we were not part of the tax-sharing pool. However, 1987-88 was the last year of operation of the Memorandum of Understanding on financial arrangements. We are now funded on exactly the same basis as we would be if we were a state.

A PERSON: How much does the Territory government receive each year from the federal government for the administration of Aboriginal affairs?

Mr HATTON: The Self-Government Act specifically excludes the Northern Territory government from having any powers in relation to Aboriginal affairs even though Aborigines constitute 22% of our population.

A PERSON: How much money is the Northern Territory government spending on them?

Mr HATTON: Are you talking specifically?. We know that 70% of our hospital patients are Aboriginal people and therefore we could argue that 70% of our health expenses are spent on providing services to the Aboriginal people. We do not differentiate between Aboriginal and non-Aboriginal in our funding.

Mr HARRIS: The expenditure on Aborigines within the education system is quite considerable. One of the problems is that, on occasion, the federal government might provide assistance in relation to Aboriginal health or education and we are not even aware that the money has come in. We have been endeavouring to work in partnership with the federal government and that 2-way exchange is vital if we are to progress. One of our concerns is that the federal government will establish a school, for example, in a particular community and then will turn around and say that the Northern Territory government is responsible for housing the teachers and paying for the ongoing costs. We have to ensure that we are able to meet those commitments.

Another problem is that the federal government may institute a particular program that runs for, say, 5 years and it then pulls out, leaving the Northern Territory government to pick up the tab if the program is to continue. It is not really fair and it makes things very difficult for us in that we are blamed for pulling out of such exercises. We are talking continually with the Commonwealth in an effort to come to grips with such problems. Unless there is agreement with the Commonwealth on such programs, there will be problems further down the line. An example is what occurred in relation to the rehabilitation centres. You will recall FORWAARD and other programs where Commonwealth funding was withdrawn and the Northern Territory government did not have the resources to fill the gap. We are taking those matters up with the federal government because it is imperative that we ensure that the best use is made of all available funds. I believe that our relationship with the federal government in that respect is very good at the moment.

Mr HATTON: Could I pick up a couple of points and try to explain the budgetary process. We do not have a Department of Aboriginal Affairs. In fact, the Self-Government Act stipulates that we cannot have one. We do have functions in relation to Aborigines operating through the various departments such as roads in Aboriginal communities. Aboriginal housing programs are undertaken by means of the Commonwealth States Housing Agreement through which there is some specific purpose funding for Aboriginal housing. The provision of health clinics, schools and educational services are also functions. It applies right across the spectrum of government.

Mr FORRESTER: Those are human rights entitlements.

Mr HATTON: I agree with you.

Mr FORRESTER: The Northern Territory government, as it now stands, is looking at constitution in relation to how whites will live in the Northern Territory in years to come. Is the Northern Territory government going to look at the 30% of the population ...

Mr HATTON: 22%.

Mr FORRESTER: ... which is a very permanent population rather than a transient one because the whitefellas go on walkabout more than we do. We are an asset and a human resource for the Northern Territory community. Despite that fact, there is very little investment in Aboriginal communities for industrial development or the development of the tourist, cattle or mining industries. There is very little assistance given. We used to be able to go to some government agency to obtain funding to invest in the cattle industry or the mining industry and things like that.

Mr HATTON: The Aboriginal cattle industry has exactly the same access to funding and assistance as everybody else and the same applies right across all of our industry development incentives and programs. These are equally available to the Aboriginal people as they are to other people in the Northern Territory. They are not isolated from that. One of the great difficulties that we have had - and we are seeking to rectify this - is in making Aboriginal communities aware of what is available to them and that the Department of Industries and Development, the Department of Mines and Energy and the Tourist Commission are not there simply for the white man. The services of those bodies are available to our Aboriginal communities as much as to any other communities. We have been trying to reinforce that by having departmental personnel deal directly with Aboriginal communities rather than working through the former Aboriginal Liaison Unit. We are trying to ensure that Aboriginals recognise that they are entitled to access to those government services and that they are available to them.

We are looking at the provision of additional programs and we will be putting into place this year specific programs for Aboriginal employment and economic development, the AEDP programs. We are linking with the Commonwealth to provide specific employment and economic development training for Aboriginal people through the Department of Labour, Administrative Services and Local Government. We will provide skills so that people will be able to manage their affairs and obtain real jobs.

Mr EDE: There are a couple of points that I would like to pick up. The first relates to the percentage of federal moneys in our budget. To an extent, the argument relating to the mining industry relates to the percentages rather than to the gross amount. Whilst we are unable to levy taxes or royalties on those mines, compensation is made by the federal government for that. Thus, to an extent, it does not affect the total amount of money that we have available to us but there is a marginal area, if you like, because the federal royalty system relates to a percentage of the gross value of minerals extracted and these vary from one industry to another. In the Northern Territory, a profit-based royalty is used. I have heard people in the uranium industry say that they do not like our profit-based royalty because it will cost them more money and they reckon that they will not be able to afford it. Even if you discount the waffling, it is possible that there would be an increase in

the money received if we were to levy our profit-based royalty directly on the mining industry rather than relying on the amounts levied on the industry by the federal government and then transferred back to us.

I would like clarification of the point that you were leading to, Vince. Were you talking about the actual amounts of money which the Territory receives from the federal government for expenditure on Aboriginals or were you referring to the Grants Commission which travels around the Territory, determines the degree of disadvantage in various areas and adjusts the amount in the global sum granted to the Northern Territory? Were you talking about whether the actual amounts spent in Aboriginal communities reflect the degree of disadvantage and the top ups applied by the Grants Commission?

Mr FORRESTER: The Northern Territory receives funding on the basis of the Grants Commission assessment and, in addition, has its powers to tax and royalties and that kind of thing. This brings the budget up to \$1256m. However, I am afraid that, for the people of Alice Springs, Aboriginal and non-Aboriginal, the Berrimah line still applies.

Mr HATTON: I dispute that totally, Vince. I really dispute that totally.

Mr FORRESTER: Then, if we look at the communities - Brian, a lot of your communities can't get water.

Mr HATTON: Could I deal with that, because I would like to come back a debate about statehood rather than a debate about the Northern Territory budget.

Mr FORRESTER: You should ... (inaudible).

Mr HATTON: If you would really like to address that issue, what you should address first is why, after 70 years of total Commonwealth control, virtually none of the communities had any facilities at all. It is only in the last 10 years since self-government that there has been a significant improvement, and there is a long way to go. It must be recognised that there has been improvement in the last 10 years and, in 70 years, virtually nothing had been done out there by the federal government.

Mr FORRESTER: We owned this land 70 years ago.

Mr HATTON: The Commonwealth had control of this for 70 years, Vince. It is all very well to talk about what we have not done yet. We inherited that that situation and there had been a European settlement here for over a century. For all of that time, the government was outside the Territory and it had not done the job. There is a lot of catching up to do. A lot of money has to be spent to provide facilities, water, power, housing, education and health services and economic independence for the people in those communities. You know that there has been considerable improvement in the last 10 years. There is a long way to go but improvements have come since self-government.

Mr BELL: Mr Chairman, can I seek your direction in relation to the appropriateness of my making a contribution.

Mr HATTON: You are quite entitled to, Neil. I am trying to get off the budgetary processes and on to statehood and constitutions actually.

Mr FORRESTER: But it is an important part of it, Steve.

Mr HATTON: I accept that.

Mr BELL: What sort of timetable is the committee working to this morning?

Mr HATTON: I am sorry, Neil, I should explain. Representatives of the Tangentyere Council were unable to make it and therefore we have opened the meeting for anyone present to raise any matters relating to the work of the committee. You are welcome to express your views.

Mr BELL: I would like to put a number of points on the record of the committee's deliberations. First, I would like to say that, as a Territorian and an Australian, I take seriously the move towards statehood and the constitutional development of the Northern Territory. Having said that, I think there are several points that need to be made in relation to Aboriginal and non-Aboriginal people in central Australia.

Firstly, there is a widespread concern, particularly among the non-Aboriginal community, that living standards may be affected. The only reason why that is not of such great concern in the Aboriginal community is that the economic and budgetary process is not as well understood. The economic forces that are at work in the towns in the Territory are dramatically different from the economic forces at work outside those towns. I have the privilege of working in a town like Alice Springs, which is experiencing dynamic growth and the majority of whose residents are highly integrated into the economic processes of this country, and the privilege also of representing people who are well outside that economic mainstream and who enjoy certain benefits as a result but who also suffer serious disadvantages, high unemployment being not the least of them. I will not catalogue the rest of those at the moment. Thus, my first point is that I am concerned about the possible impact on living standards of altered budgetary processes and altered relationships with other Australians.

The second point that I want to make is my concern about the maturity of the polity in the Northern Territory. If one looks back at the constitutional development of the Northern Territory over the last 200 years, it is clear that it has been marked by dramatic changes. I heard you, Mr Chairman, refer to the dramatic improvements in the last 10 years in Aboriginal communities in my electorate. I suggest that, if you take a longer view, that self-confidence is not quite so merited.

If one looks at the constitutional development since the Second World War, with the partially elected Legislative Council in 1948 and the fully elected Legislative Assembly in 1974, it is interesting to note that both those constitutional developments occurred during the tenure of a federal Labor government which has so frequently been the object of scorn by certain political incumbents since 1974. My second point is that it is a matter for concern that the maturity of the polity in the Northern Territory will only be enhanced by a change of government. It is a matter of concern that there has been a single party incumbent since 1974.

Mr EDE: Hear, hear!

Mr HATTON: Mr Bell, I gave you the right to speak on the constitution, not to make a political speech. We will only end up with a row. If you continue with that nonsense, we will have a row, otherwise come back to the matter of a constitution.

Mr BELL: With respect, Mr Chairman, I suggest that all those sorts of issues, and I certainly do not seek to get into a slanging match with you or with members of the committee ...

Mr HATTON: Well, let us keep party politics out of it then.

Mr BELL: I appreciate that what I have to say may be perceived as political statements, but I think that, if we are genuinely interested in turning over the perception of constitutional development, not only within the Territory community but also within the Australian community as a whole, some issues that may be perceived as partisan need to be addressed.

Mr HATTON: I just do not see changes of government as one of them.

Mr BELL: I think that a mature polity is characterised by changes of government and those sorts of checks and balances. Basically, I believe that the pursuit of constitutional development in the Northern Territory, in the context of the pursuit of equality, justice etc, will be better served by those sorts of changes of government. I would like to think that, if the political situation were reversed, I would feel quite happy to agree that cyclical change is desirable.

There are 2 other - well, actually, there are 3 more ...

Mr HATTON: I will resist the temptation.

Mr BELL: ... thorny aspects that apply particularly to my electorate and that I wanted to raise in the context of these hearings. If I have not done so already, I must say that I welcome these hearings in the Territory centres. The fact that they are being held in the Territory centres suggests that the process is not as easily apprehended in some of the non-English speaking communities that form part of my electorate. In that context, possible changes in respect of national parks and the Aboriginal Land Rights Act need to be given some consideration. I am quite happy to place on record that, with respect to national parks and the Aboriginal Land Rights Act, I think that the current processes that are occurring are desirable. They are not perfect by any means but I think that the processes that are occurring, particularly with Ayers Rock and the ownership arrangements that have been so contentious, will be affected by statehood. I would not be doing my job as a member of the Legislative Assembly if I did not to bring my concerns to the attention of the committee. I provide as evidence an article that appeared in our local paper on 8 April headed 'Coalition Would Give Parks to the Territory'. It indicated that 'control of Kakadu and Uluru National Parks would go to the Territory upon obtaining statehood under a federal coalition government'. I simply place on record my concern about the possible implications of that.

Mr HATTON: What are those concerns, Mr Bell?

Mr BELL: Having been intimately involved in the process of the recognition of Aboriginal traditional ownership at the Rock and the process of working out what it means to have a national park with such a high visitation rate held under national ownership but, at the same time, open for the increasing number of visitors, I am concerned that it may be jeopardised.

Mr HATTON: Can we deal with the issues. I would like to pick these up and be clear in my mind about what you are saying. I am having some difficulty at the moment. Are you concerned that, if the parks were returned to the management and control of the Northern Territory, there would be some change in the Aboriginal ownership title?

Mr BELL: Yes.

Mr HATTON: If that were not a problem, that would be one concern you would not have?

Mr BELL: I would appreciate your public commitment that that would not happen.

Mr HATTON: It has been a public commitment for 2 years.

Mr BELL: That is a commitment that the ...

Mr HATTON: From our side of government, certainly.

Mr BELL: Right.

Mr HATTON: We have made the point very clearly, and I will repeat it for everybody's benefit. We have made it very clear that we do not intend to revoke or take away title to land that has been granted to Aboriginal people.

What we have said in respect of the Aboriginal Land Rights Act is that the form and structure of a Northern Territory Land Rights Act would be one that would be worked out by the Northern Territory community. We would seek to discuss that with the Aboriginal people and with other people in the Northern Territory in order to obtain an act that is an act of the Northern Territory people, including the Northern Territory Aboriginal community. That is set out in a book called 'Land Options for Statehood'. That has been and is our position.

Mr YUELL: Just a question, Steve. Is this going to be the procedure for this meeting today?

Mr HATTON: I certainly hope not.

Mr YUELL: That we just ask a few questions and ...

Mr HATTON: You are certainly welcome to, yes.

Mr EDE: I think that, for the benefit of Hansard, we should ask people to state their names before making a statement otherwise we will not be able to identify who said what.

Mr HATTON: Certainly. We are trying to keep this hearing as open and free as possible so we can hear what people think or accept any questions.

Mr YUELL: Well, when I rang up, I was concerned to give a formal verbal statement.

Mr HATTON: Certainly. I will allow that as soon as we finish with Mr Bell's comments. I will ask you to come forward and make a formal statement.

The other issue, I guess, is whether there will be adequate funding available to ensure the maintenance and protection of the park and the form of the park management. I presume that is another issue that you are concerned about. With respect to the fact that a major national park is run by the national government or an authority of the national government, you are aware of the situation in relation to the Great Barrier Reef National Park?

Mr BELL: I am not aware of the management arrangements.

Mr HATTON: It is run by the Queensland National Parks and Wildlife Service. There is also the Kosciusko National Park. In fact, apart from Norfolk Island and Christmas Island, do you know of any other national parks in Australia that are managed by the Australian National Parks and Wildlife Service?

Mr BELL: Apart from those in the Northern Territory?

Mr HATTON: Yes.

Mr BELL: No.

Mr HATTON: There is one in Canberra, but that is all. I wanted to make that point. We are talking about issues of equality and what is appropriate. You would agree that parks such as the Great Barrier Reef National Park would have a higher visitation rate than Uluru National Park.

Mr BELL: Sure.

Mr FORRESTER: Steve, I was quite impressed with your opening remarks about having a preamble to the constitution.

Mr HATTON: I mentioned that as an issue to be discussed.

Mr FORRESTER: Yes, as an issue.

Mr HATTON: Please do not draw any conclusions about my personal attitude on that question.

Mr FORRESTER: I am glad that Australia is now starting to mature and to understand our claims to the ownership of this land. It is an historical fact that the present system is based on a lie because it does not recognise our prior ownership of Australia. Would the Northern Territory constitution fit in with the treaty proposed by Bob Hawke and the Labor government? Would the government support the idea of such a treaty which would entail our representation as Aboriginal people by having seats set aside as occurs in New Zealand, which has the Treaty of Waitangi with the Maori people, or under the Indian Self-Government Act in Canada? The historical facts are there. I notice what is on this crest here. I can dance that song. That is my grandfather's story. That is my grandfather.

Mr HATTON: You come from Kakadu, do you?

Mr FORRESTER: No, that kangaroo there. That kangaroo there; that is my grandfather. I have got that story. That story has been here since the beginning. Our prior ownership of this land, or whatever people want to term it, needs to be recognised in a treaty so that we can have equality. For instance, I see you have the judiciary here. Why does the Northern Territory have the highest rate of imprisonment of Aboriginal people?

Mr HATTON: One can assume that they are committing the most crimes.

Mr FORRESTER: We have some Aboriginal representatives in the Northern Territory, but we do not have any in the federal parliament. These are some of the issues that we will have to come to grips with.

Mr HATTON: The issue of a treaty is a matter that the federal government has taken upon itself to address.

Mr FORRESTER: Fraser took it on himself too.

Mr HATTON: We each have a particular view with respect to any national treaty. I have some personal views on that. It is very difficult to comment because it is not necessarily a statehood issue. Certainly, it is a national issue. I have certain very serious questions in respect of the treaty. The first thing I would like to know, and the federal Minister for Aboriginal Affairs has been unable to tell me, is what the federal government is talking about. I asked him that question specifically and he was unable to tell me, even as a concept, what the federal government is talking about.

Mr FORRESTER: There is plenty of material available.

Mr HATTON: There is a lot of prior material. However, I am talking about the statement that was made at Barunga last month. I met the Minister for Aboriginal Affairs a week later and he was unable to tell me. When he or Mr Hawke or the federal government can tell me what they are talking about, I will be in a position to think about whether I agree or disagree with it. Right now, I do not know what they are talking about. Either they themselves do not know or they have a hidden agenda that they are not telling us about. I am not prepared to debate the issue of a treaty here. We have addressed the issue of whether there should be a preamble and a recognition of Aboriginal prior occupation or the special place of Aboriginal people in the Northern Territory. That issue needs to be addressed because it is a matter of concern to significant sections of the community. We are prepared to address that and we would appreciate receiving submissions in relation to it.

Mr EDE: I would advise that Hansard is having problems in picking up questions and comments from people in the audience. Although it will mean that we become a little more formal, I think it may be necessary to ask people to come forward and speak near the microphone. They should also state their names and the names of any organisations that they represent. It is no good having the answers on the record and then trying to guess the questions. We need to have a record of what people are saying.

Mr FORRESTER: In relation to the discussion paper on a proposed new constitution for the Northern Territory, I believe that, if we are aiming at Aboriginal and non-Aboriginal people sharing their land and society with one another, a treaty must be discussed. A treaty must be

addressed in the formulation of a constitution for the proposed new state. The permanent people, the Aboriginal people, constitute a third of the population of the Northern Territory. The historical facts must be addressed because, if they are not, our children and grandchildren will still be living with an historical lie. Wesley and I are practically non-existent in terms of these things here. Aboriginal and white people must become mature enough to look at how we can come together. Some of my best friends are non-Aboriginal people. We have to bring our societies together but not in terms of assimilation. We must look after our own culture, our own land and our own people. At present, this system does not serve our needs in relation to education, legal matters, health matters and parliamentary representation in the federal parliament or whatever. These are some of the issues that have to be addressed.

Mr HATTON: Could you grab a seat for a second? Some people would like to ask you some questions, Vince. Could you take a seat up here. I will ask the gentleman who wanted to make a formal submission to go next.

Mr EDE: Vince, are you here as an individual or are you representing an organisation?.

Mr FORRESTER: I am Chairman of the Institute for Aboriginal Development. I am also Treasurer for CAAMA and a board member of Imparja Television. I am also representing Legal Aid because all the lawyers are in the courthouse at the moment helping some of our brothers and sisters.

Mr HATTON: Are you speaking on your own behalf or on behalf of the organisations?

Mr FORRESTER: I am speaking on behalf of the Institute for Aboriginal Development, CAAMA, Imparja and so on.

Mr EDE: Vince, in respect of the treaty, I understand that there is soon to be a meeting of Aboriginal leaders from around Australia to discuss the form, content and principles of a document to be negotiated with the federal government. In that process, those people may decide that they wish to negotiate solely with the federal government and have a treaty with the federal government rather than risk having the principles that they are able to agree with reduced in some way and ending up with the lowest common denominator of what the states will accept. There is also the possibility that the whole concept of a treaty may falter. In the light of those worries, don't you think that it would be ideal for us to talk about the concepts involved in a treaty in relation to our constitution in the Northern Territory rather than deferring the process of talking about those issues until that treaty is negotiated?

Mr FORRESTER: At Barunga, Bob Hawke said that a treaty will be negotiated between Aboriginal and non-Aboriginal Australia and completed by the time of his next government. However, you do not know. He might go for elections shortly; that is politics. If we are to live in a much more friendly environment with one another, we have to address that when we are looking at a constitution for the Northern Territory. The simple fact is that we are a big proportion of this community and we believe that we must participate in anything that has to do with land rights - and not only land rights are involved in a treaty - political rights, economic rights, social rights etc.

Mr HATTON: Is that an equality of rights or special rights?

Mr FORRESTER: That is recognition of our ownership of this land of which we have never ceded sovereignty. We do have a political structure in our society. We do have rules like you have. We have laws about whom we can marry and about who has to look after this and who has to look after that. We have a society that is structured in that way. That is our law.

Mr HATTON: You have a cultural and religious structure?

Mr FORRESTER: We have a cultural and religious structure that is related to the land. It is not like the Christian society with its belief in God. We have our story in relation to the land, our religious attachments to the land. At present, the Australian government has a piece of legislation called the Heritage Act. Gerry Hand can tell us what a sacred site is. That goes right against your constitution that you are living under in Australia - section 116 of Australian Constitution. These are some of the questions that have to be addressed. Who can tell us our religion? Only our grandfathers can tell us our religion.

You are looking at land matters and statehood. In the treaty, I would like to see recognition of sacred objects and of the ownership of sacred sites. These are some of the issues that really have to be addressed. You are Australians. You are non-Aboriginal Australians. If we can get that interaction going between Aboriginals and non-Aboriginals, we will make the Territory a much better and much friendlier place to live in. We have to look at some of the issues. We have blokes like Hugh Morgan standing up there. That bloke is damaging the future of our children, both Aboriginal and non-Aboriginal Australians.

Mr HARRIS: Mr Chairman, I think you have indicated very clearly that you will take on board the comments that have been made. The comment that I made at the start was that this is an opportunity for people to put their views. When you mention people like Hugh Morgan, there are also Michael Mansells on the other side. Of course, you are aware also that there are Aboriginal people who do not agree with the idea of having a treaty? Are you aware of that?

Mr FORRESTER: I travel Australia. I cannot count how many times a year I travel Australia. I see most of the blackfellas in the whole of Australia. My cousin is sitting in those chambers there - Bob Liddle. Bobby does not agree with the treaty. But, he is the only one out of all the blackfellas in Alice Springs who does not agree with the treaty.

Mr HARRIS: As I indicated earlier, I am sure that the committee will take your comments on board. What we hope to do in moving around the communities is to get people to come forward to express their views. I can assure you that people will be expressing views from both sides of the fence. It will be very difficult to assess the comments made in relation to this issue. Referring back to what Neil said, I too take this matter very seriously, as do the other members of the committee. The comments of any member of parliament or any member of the community will be taken on board. The issues raised by Neil Bell will definitely be considered. During the course of this hearing, he will again have the opportunity to emphasise those points.

What I would like to put to you, Vince, is that we are moving around listening to people. This is the opportunity for people to make their comments and we will listen to what they have to say. We have a lot of ground to cover. I began by saying that my concern was to get people to come along to these hearings. It appears that everyone here today received notice by means of the

printed media. Might I suggest that television or radio could be used. Would you agree that that would be a way of getting people to these hearings?

Mr FORRESTER: Definitely.

Mr HARRIS: Perhaps that is something the committee can take on board, Mr Chairman.

Mr FORRESTER: Steve, if you are interested in the treaty concept, you will find much material at the Institute for Aboriginal Studies in Canberra. You will find written material on a proposed treaty that was talked about under the Fraser government. All the information is there - the demands, how the Aboriginal people ...

Mr HATTON: That is the 27 point ...

Mr FORRESTER: 24 point.

Mr HATTON: I have a copy of it.

Mr FORRESTER: It is not what we are demanding but it is information available to people on both sides of the fence.

Mr EDE: Vince, you spoke about ownership of land and sacred objects and sites as being 2 specific matters that you feel should be addressed in our constitution. There are things that may be in a treaty but may not be applicable to a constitution. A constitution is a document which lasts forever whereas a treaty may require a commitment from both sides to work towards an equality of opportunity and living standards, for example, within a specific time frame. It may be that it is not appropriate for something like that to be locked into a constitution which will last for hundreds of years. It may be something which is developed in a different form of legislation which ranks higher than ordinary legislation but does not have the status of a constitution.

Would you agree with that? Secondly, are there other specific areas, apart from ownership of land and sacred objects and sites, which you see as being essential for incorporation in the constitution of the Northern Territory?

Mr FORRESTER: The land issue must be addressed in a constitution. We would be stupid if we went for a legislative treaty and we cannot trust anybody. We have been down for quite a few years and we are still down. We really cannot trust the Labor Party or the Liberal Party or the National Party or the Democrats. We really cannot trust them. The only people whom we can trust are our own. Therefore, we must have our own representation in parliament like Wes who has to answer to our community. I have to answer to our community. In respect of sacred objects, there is interference with our religion. At the moment, we have Mrs Kathy Strehlow who thinks she owns a big mob of objects up in the museum in Darwin.

Mr HATTON: I can assure you that she doesn't.

Mr FORRESTER: In our belief, you do not own such things. Your lifetime on this earth is just like a snap of the fingers. That is your lifetime. Those things are much older than the Bible. We have to address that question of ownership. Those things own us; we don't own them. That is the

perspective that you have to take when you are dealing with land matters, sacred objects and sacred sites.

Mr LANHUPUY: Vince, correct me if I am wrong. What you would like this committee to consider is something specifically related to Aboriginals within a preamble to the constitution of the Northern Territory because of our occupation of the land?

Mr FORRESTER: It has to be.

Mr LANHUPUY: Health and other matters can be dealt with elsewhere but you want a specific section in relation to Aboriginal people within the preamble of the constitution?

Mr FORRESTER: Within the constitution of the Northern Territory, specific issues must be addressed and they must be addressed also in the preamble. I was very impressed when you referred to a preamble, Steve. It is a pleasure to hear a Chief Minister of the Northern Territory saying things like you are saying lately.

Mr EDE: Just before you go, there are 2 issues that I would like clarified. You were talking about parliamentary representation. Are you thinking in terms of having a second tier of seats in the Northern Territory which would be for Aboriginal people only?

Mr FORRESTER: What do you mean? Upper and lower Houses?

Mr EDE: No, I mean sitting in the same Assembly. I do not think you were talking about upper and lower Houses unless I am quite mistaken. You are talking about people sitting within the one House but that they may be elected in 2 different ways. There may be general electorates within which all people can stand and all people can elect members and other electorates within which only Aboriginal people can stand or elect members. Is that what you are saying? Or are you saying that there should be electorates within which only non-Aboriginal people can stand or elect members and other electorates specifically for Aboriginals? Have you developed your ideas fully on that? Would you like to give us a bit more on that one?

Mr FORRESTER: You would have to address the question of having special seats reserved for Aboriginal people in the Northern Territory Legislative Assembly or a state parliament. I believe also that the Northern Territory would be foolish to move to statehood without having an equal number of Senators as the states. There must be 12 Senators for the Northern Territory to become a state. That is one issue that I believe the Northern Territory government should not back down on because the Senate is there to protect the states' rights. However, there must be some provision made for representation of Aboriginal people within the Senate.

Mr HATTON: Could I just pick up on this issue of specific Aboriginal seats. Would you see the Aboriginal people voting for those people to sit?

Mr FORRESTER: Of course.

Mr HATTON: Right. Would they also vote for other electorates? Would they have 2 votes or 1?

Mr FORRESTER: They would have 1 vote.

Mr HATTON: Only for the Aboriginal representative, not for the other representative?

Mr FORRESTER: The Aboriginal community in Alice Springs is a large one but our vote is not effective because it is spread among various electorates. That applies right throughout Australia. The 1-vote-1-value system does not suit us because we are in such a minority in our own country. We are distributed right throughout this big land of ours. We do not have any real political involvement in ...

Mr HATTON: Would you argue that the non-Aboriginal people in the Stuart electorate are not being adequately served by the 1-vote-1-value system because the Aboriginal people are in the majority there?

Mr FORRESTER: The percentage of Aboriginal people in Stuart is 75%-80%. Brian?.

Mr EDE: About 75%.

Mr FORRESTER: That only came about through a redistribution of your boundaries.

Mr HATTON: But, there have to be boundaries. You would accept that, wouldn't you?

Mr FORRESTER: Oh, yes. There have to be boundaries.

Mr HATTON: I am challenging your assertion because there are a number of seats in the Northern Territory which have a majority of Aboriginal people.

Mr FORRESTER: Neil's seat, Wesley's seat, Brian's seat. All the Labor Party seats are blackfella seats.

Mr HATTON: Not VRD.

Mr FORRESTER: That is you blokes.

Mr EDE: Just one other point before you go. I would like to clarify what you had to say about general functions such as health, welfare, education, housing etc. Are you saying that there should be a statement of human rights in the constitution which says that everybody, regardless of race, should have equal access to education, housing, employment etc. Are you saying that there should be a statement to that effect?

Mr FORRESTER: Look at the history of how matters relating to Aboriginals have been dealt with. We have been through bloody hell. I can certainly say that on the basis of my growing up and my understanding of what the system is about. We have been taken from our mothers, our fathers and dispossessed of our land and our culture etc. My dream in relation to a treaty is that we blackfellas would look after our own language, our own culture and our own health because I believe that we would do it a lot better.

Mr HATTON: Vince, could I just ask you a couple of other questions? What if the Aboriginal people did not want to be represented by an Aboriginal person? For example, in the

Stuart electorate, they have chosen a non-Aboriginal person to represent them. Should they be denied that right?

Mr FORRESTER: I believe that political maturity is coming about in the Aboriginal community in the Northern Territory...

Mr HATTON: But should they be denied the right to vote for a non-Aboriginal person whom they believe would best represent their interests? Should they be forced to vote only for an Aboriginal person?

Mr FORRESTER: I believe that we should be reaching a stage now whereby we have enough education and political nous within our Aboriginal community. The Aboriginal people elected Wesley. He is an Aboriginal person representing Aboriginal people.

Mr HATTON: As they did also in the Arafura electorate. Shouldn't the Aboriginal people have a choice as to whether they will elect an Aboriginal person or a non-Aboriginal person?

Mr FORRESTER: Oh, well, when you blokes go round and talk about your constitutional development, we will talk about the treaty.

Mr HATTON: Let's keep on the subject. I asked you a question which you have not answered yet. You said that the Aboriginal people should have only 1 vote. If they are required to vote for specific Aboriginal representation, they would then be denied the right to vote for a non-Aboriginal representative whom they may well want.

Mr FORRESTER: If we want to be in the system. Why can't we have our own self-government?

Mr HATTON: Do you want to create a society within a society, a nation within a nation?

Mr FORRESTER: A nation within a nation or participating within the nation.

Mr HATTON: Which one?

Mr FORRESTER: At the moment, we are a nation within a nation.

Mr HATTON: Do you want to participate within the 1 nation?

Mr FORRESTER: We are a territory within a territory at present. There are the Aboriginal people there and the non-Aboriginal people there. That is how it comes across in all your stuff in The Australian about the tenth anniversary. If you look at the stuff in the newspaper, it is sort of Aboriginals there and the non-Aboriginal Territorians here. Let's look at bringing people together but also keep our own identity.

Mr SETTER: Vince, could I ask you to clarify that point?

Mr HATTON: I am sorry. I would like to follow the line of questioning if I could. You want a separate political identity?

Mr FORRESTER: We are a separate people. For example, I was not recognised as a white Australian when I wore the Australian Army uniform.

Mr HATTON: I understand what you are saying about that.

On the one hand, you are saying that you want to bring people together with mutual respect for each other's cultural and historical differences and, on the other hand, you want separate political representation.

Mr FORRESTER: And some rights as indigenous peoples.

Mr HATTON: How would you go about that? Would you have specific Aboriginal seats in the parliament of the Northern Territory?

Mr FORRESTER: Possibly, or in the federal government. I believe the Northern Territory government must look at the Treaty of Waitangi. Have a look at the Treaty of Waitangi and you blokes will then have more information.

Mr HATTON: Let me take one step at a time. I presume that those people would be elected by the Aboriginal people themselves, would they? There would be some form of boundaries for that representation?

Mr FORRESTER: Yes.

Mr HATTON: And only an Aboriginal person could stand for those seats?

Mr FORRESTER: Yes.

Mr HATTON: Then, we would have electoral boundaries for the other members of the Northern Territory. The Aboriginal community and the non-Aboriginal communities are living in the same geographic areas.

Mr FORRESTER: Not really.

Mr HATTON: Well, they are. In the electorate of MacDonnell, there are non-Aboriginal people as well as Aboriginal people. There might be an Aboriginal community here and a non-Aboriginal community there but, in the total area, there is a mixture of people. Isn't that so?

Mr FORRESTER: But with certain rules and regulations attached to it. I come from that country. Yulara is a classic example. There is an investment there of some \$250m. The biggest asset that the Northern Territory has for tourism is the Aboriginal people and their lands. Nevertheless, the Aboriginal people were deliberately excluded from participation in Yulara. That is not your fault; it is Mr Everingham's fault.

Mr HATTON: That is not even true.

Mr FORRESTER: Oh, yes. Where do you see Aboriginal people involved in the township of Yulara?

Mr HATTON: The Aboriginal people themselves took the decision to live at the Mutitjulu community in Uluru National Park. There was an Aboriginal community being built there but they chose not to live there. It was built but they chose to live at the Mutitjulu community near Uluru. They were not excluded. They chose to live in a different community.

Mr FORRESTER: Not that I know of. I come from there.

Mr HATTON: Well, I am telling you.

Mr FORRESTER: I come from there and I was involved in the discussions that took place.

Mr HATTON: I know that there were people who actually moved in and then moved back out again.

Mr FORRESTER: They are still moving in and out there. Our permanency. I believe that, in the Northern Territory, there is a problem of cultural misunderstanding.

Mr HATTON: I do not dispute that, but you are dragging me off the question again. In the Stuart electorate, 25% of the people are non-Aboriginal and 75% are Aboriginal. In the electorate of MacDonnell, 30% or 40% of the people would be non-Aboriginal. If you are to have the Aboriginal people in that area voting for a particular Aboriginal candidate, would they also vote for the representative for the total area? Would they have 2 bites of the cherry?

Mr FORRESTER: No, they would have only 1 vote.

Mr HATTON: They do not get to vote for the other representative? Thus, there would be 1 electorate overlaying another - 1 for Aboriginals and the other for non-Aboriginals?

Mr FORRESTER: In the Northern Territory Legislative Assembly, there are 25 seats. Right?

Mr HATTON: I am not talking about numbers. It is either true or it is not true. Obviously, you are saying yes.

Mr FORRESTER: Can I put it in a perspective that I quite clearly understand.

Mr HATTON: I am trying to get one that we understand.

Mr FORRESTER: In the Northern Territory parliament, there are 25 seats and then there is Warren in the House of Representatives and Grant Tambling and Bob Collins in the Senate. There are 28 people involved in the parliamentary process in the Northern Territory. We are a third of the population in the Northern Territory yet we have only 2 blackfellas representing us - Wesley and his mate from Arafura.

Mr HATTON: But there are a number of seats where there are a majority of Aboriginal people and they have chosen to vote for somebody else. Isn't it their right as citizens of the Northern Territory to have that choice or are you trying to deny them that right?

Mr FORRESTER: No.

Mr EDE: Are you talking about Aboriginal people having the ability to choose to be on an Aboriginal roll or on a non-Aboriginal roll? If the electorates throughout the Northern Territory are to have equal numbers and all the Aboriginal people in Stuart opted to be on the Aboriginal roll, because only 75% of the people there are Aboriginal, the other 25% would have to come from MacDonnell or the Barkly. The other people would be on the general roll or whatever it would be called. Both groups would have 1 vote but an Aboriginal person may have an electorate of Stuart which takes in part of the Barkly and all of Stuart and another person may have the same area but be responsible for the non-Aboriginal people in that area. He will look after non-Aboriginal issues in the area the Aboriginal person would look after Aboriginal issues. Are you talking about something like that?

Mr FORRESTER: Because I live in Alice Springs, I cannot vote for Wesley because he is in the Top End. I would rather give my vote to Wes because he is an Aboriginal person and he understands what I am on about. We should be given a third of the seats involved in the parliamentary process because we make up a third of the population.

Mr EDE: Are you talking about a multi-member constituency? Or are you talking about a multi-member constituency for Aboriginal people where all of the Aboriginal people of the Northern Territory vote for a percentage of members?

Mr FORRESTER: The percentage of members.

Mr EDE: Thus, an Aboriginal person from here would vote for 3 or 4 or whatever number representatives whereas a non-Aboriginal voter would be restricted to a single electorate?

Mr HATTON: I don't think that is in fact what you are putting?

Mr FORRESTER: To cut the discussion short, the Northern Territory government has a lot of bucks. They can get over and look at ...

Mr HATTON: I wish we did.

Mr FORRESTER: You blokes can go over to look at uranium mines. I believe that you should be able to go over to New Zealand - and I think my friend Wesley has been over there - to get an idea of how the Treaty of Waitangi works. The High Court in New Zealand determined recently that it is a legitimate treaty. Wesley can give you some sort of briefing on how that treaty works and how the Maoris vote for their representation over there.

Mr HATTON: Thank you. I ask the other gentleman if he would come forward. Perhaps you could begin by introducing yourself.

Mr YUELL: Thank you. My name is Ian Yuell. Perhaps to establish my bona fides, I should say that I consider myself a Territorian after living here for for 11½ years. I am not a member of any political party and never have been. I am a member of the teaching service. I was Assistant Principal at Sheperdson College at Galiwinku for 4 years and then coordinator with Yiparinya School for 3 years. For the last 5 years, I have been Assistant principal at Yirara College. Thus, my concerns relate mainly to education and to the Aboriginal people. My

experience as a Territorian has been one of working with and for Aboriginal people and I have made a conscious effort to listen to what Aboriginal people have been saying during that time.

I would like to go through some of the points in these documents which I received last night. I had a late night last night. I would like to take Rick up on the point that he made: that the whole point of this is to give the Northern Territory government more power. He spoke about getting more control over different things. I would like to draw your attention to page 13 of information paper No 1 where you have listed the possible changes to Commonwealth legislation. I noted that this is not in chronological order and therefore it must be in order of importance. The third piece of legislation in your long list of legislation that requires some change is the Aboriginal Land Rights (Northern Territory) Act 1976. The proposal is that this act would be patriated to the new state as part of its law. For the last 11½ years, I have been listening to Aboriginal people and, since this act was passed in 1976, it has been of concern to them, and it is of concern to me, that the Northern Territory government has opposed every single land claim that has been made under this act by traditional owners. I am not concerned about the reasons for that. All I am concerned about is that, if this committee and if our government of the Northern Territory is to have credibility in this whole question of statehood, it must be seen to be not opposing the legitimate aspirations of the Aboriginal people.

Mr HATTON: You are saying that the Northern Territory government has opposed every land claim?

Mr YUELL: Yes, it has.

Mr HATTON: Are you arguing that the Northern Territory government opposed the Lake Amadeus land claim?

Mr YUELL: To the best of my knowledge, it has opposed in principle every single land claim that has been lodged under that act.

Mr HATTON: Do you understand the operations of the Northern Territory Lands Rights Act?

Mr YUELL: Yes, I do.

Mr HATTON: You know then that the role of the act is to provide an opportunity for the granting of Aboriginal Land title to traditional Aboriginal owners of unalienated Crown Land. Is that correct?

Mr YUELL: Yes, that is correct.

Mr HATTON: In that process, do you accept that it is appropriate that the first job is to determine whether the people who are claiming to be traditional owners are in fact the traditional owners?

Mr YUELL: Yes.

Mr HATTON: Who have rights or responsibilities for that land?

Mr YUELL: Certainly.

Mr HATTON: How would you go about that process?

Mr YUELL: Not by formally opposing it as a matter of principle.

Mr HATTON: You would need to test it, wouldn't you?

Mr YUELL: Yes, but not by formally opposing it.

Mr HATTON: You said you understood the operations of the Land Rights Act. You realise it is an adversary system?

Mr YUELL: That is correct.

Mr HATTON: Remember it is not our act.

Mr YUELL: No. But I would put it to you that I have seen Aboriginal people establish who the traditional owners are in a non-adversary way. I am saying to you ...

Mr HATTON: This happens to be a federal act that sets up a procedure and that procedure is determined by the federal parliament. What is the process that they adopt in determining whether a person is in fact a traditional owner?

Mr YUELL: All I am saying to you is ...

Mr HATTON: No, I will ask you to answer that question.

Mr EDE: I would like to come in here if I could. By talking about it as an 'adversary system', you are getting away from the true nature of it. It is an inquiry. To call it an 'adversary system' would be the same as calling the Fitzgerald Royal Commission an 'adversary system'. It is an inquiry. People are able to come forward and give testimony as to what they believe is the reality of the situation.

Mr HATTON: I will pick up another line on that and say that, if one is to test the validity of someone's claim to have title to land, one must challenge him to demonstrate that he has title.

Mr YUELL: All I would like to say ...

Mr HATTON: Is that not true?

Mr YUELL: All I would like to say on this point ...

Mr HATTON: There is a perception of opposing every land claim.

Mr YUELL: Yes, that is right. And that is the point that I am putting to you.

Mr HATTON: There is also a perception that the Northern Territory government takes everything to appeal whereas the majority of appeals have been lodged by the land councils. Are you aware of that?

Mr YUELL: Look, all ...

Mr HATTON: You made an assertion to this committee and I am simply challenging your assertion.

Mr YUELL: All I am putting to you is that there is a perception that I have and it is a perception, I think, that is shared by a good number of Aboriginal people ...

Mr HATTON: I accept that.

Mr YUELL: There is a perception that the Northern Territory government is opposed to land rights.

Mr HATTON: I accept that there is a perception.

Mr YUELL: What I am saying to you is that, if you want Aboriginal people and people who support Aboriginal people to be on side in this whole statehood business which will give your government more power, you must be seen to be listening to them and giving them more power over their own affairs.

Mr HATTON: I understand what you are saying.

Mr YUELL: That is my first point. The second point concerns the legislation that is the sixth on the list: the National Parks and Wildlife Conservation Act. Again, there is a perception that the Northern Territory government is opposed to Aboriginal people, traditional owners, having control of national parks, having title to national parks. This was brought home to me at Yirara College and I must say that I am speaking as a private individual.

Mr HATTON: I recognise that.

Mr YUELL: At the time of the handover of the title for Uluru, we received a verbal instruction at Yirara College that no government vehicle was to be used to transport Yirara students to that ceremony.

Mr HATTON: Yes.

Mr YUELL: Are you aware of that verbal instruction?

Mr HATTON: Yes.

Mr YUELL: All right. Some of our students were in fact related to that land and, by traditional law, they should have been at that ceremony. Are you aware of that?

Mr HATTON: I can accept that, yes. I wasn't aware of it.

Mr YUELL: Here is a case where we were given an instruction not to assist those students to get to that ceremony.

Mr HATTON: Yes.

Mr YUELL: In the end, the only way that we could get those students to that ceremony was to use the Yirara College Council vehicle which was a non-government vehicle. What I am putting to you is that there is a perception in the Aboriginal community that the Northern Territory government is not supporting the legitimate aspirations of Aboriginal people to have control over such things as national parks if that land is their traditional land.

Mr HATTON: You are making the assumption that it is their legitimate aspirations to control national parks as distinct from exercising their traditional rights and responsibilities in respect of that land. There is a difference. I appreciate that these are important issues and that is why I am taking some time to address them. Are you aware that, through the Northern Territory Conservation Commission, we are establishing joint management agreements with the traditional Aboriginal owners in most parks in the Northern Territory.

Mr YUELL: Yes.

Mr HATTON: That is totally outside the Land Rights Act. I refer to Kings Canyon, Litchfield ...

Mr YUELL: Yes, I have heard of that. That is really good.

Mr HATTON: That process has been occurring irrespective of the land rights exercise. In most of those cases, there has been an agreement from a majority of Aboriginal people on the local management committees of those parks.

Mr YUELL: That is really good but what I am putting to you is that ...

Mr HATTON: The perception out there is not that.

Mr YUELL: There is a very clear perception as instanced by this case. It was 1985, wasn't it?

Mr HATTON: Yes.

Mr YUELL: All the Yirara students knew that your government was consciously trying to stop some of their number from attending that ceremony that they knew that they should attend.

Mr HARRIS: Steve, that could be disputed of course. It needs to be made clear that no one was being held back from going there. That is the problem when you talk about perceptions. It is perceived that the government tried to stop people from being present on that occasion and that is not the case at all. They were not prevented from going; that was not the direction. I think we are getting back to perceptions again.

Mr HATTON: I might say that, in respect of Uluru Katatjuta National Park, the matter of Aboriginal title was not the issue in so far as our government was concerned. The issue was the Commonwealth takeover of the park. During 1985, and I was the Minister for Conservation at the time, we made a specific offer of a Territory title over that park. It had been made in 1982 or 1983, I believe, and it was reiterated in 1985 and rejected in favour of a Commonwealth title and a Commonwealth takeover. The dispute was about the Australian National Parks and Wildlife Service taking over the park, not the Aboriginal ownership of the park.

Mr YUELL: Yes, but all I am saying to you is that the perception ...

Mr HATTON: I know the perception

Mr YUELL: ... that Aboriginal people have is that you tried to stop those kids from going.

Mr HATTON: I accept that their perception is different. But, as a person who is listening to and talking with Aboriginal people and raising these matters, you should at least know what the real issue were. That is all I am seeking to point out, nothing more than that.

Mr YUELL: Right.

Mr HATTON: I accept and I recognise the significant point that you are making: that in relation to issues such as land rights and control and management of national parks, there is a perception that the government of the day is anti-Aboriginal. I think that is the point that you are making. Whether the facts support that or not is not the point that you are making.

Mr YUELL: Yes, that is correct. If you want this statehood proposal to get off the ground with the support of one third of the population, who are permanent Territorians, somehow you will have to overcome that perception. You will have to be seen to be supporting legitimate Aboriginal aspirations to control their own affairs.

Mr HATTON: That is a valid point and I support that.

Mr YUELL: Good. Referring to page 17, number 25, there is a slightly different issue - the Public Service Act and the Commonwealth Teaching Service Act. I raise this out of personal self-interest. As I am one of the employees who was compulsorily transferred from the Commonwealth Teaching Service to the Northern Territory Teaching Service, I am wondering what sort of amendments may be required there.

Mr HATTON: I may defer to our legal adviser on this particular matter. I think they are technical and administrative.

Mr NICHOLSON: (Totally inaudible).

Mr HATTON: There are certain issues that need to be addressed. It does not indicate that they need to be changed.

Mr YUELL: Talk of severance sounds rather painful to me.

Mr EDE: Ian, the point that you are making is that, in the context of those acts, there may be a very painful industrial issue that may need to be undertaken. This may have a particular impact on people in your situation. There may need to be some form of permanent secondment from the Commonwealth Public Service to the Northern Territory Public Service which will need to be included in the new act or whatever. That is an industrial issue that needs to be taken on board prior to statehood in order to convince people in your situation that they will not lose rights as a consequence of statehood.

Mr YUELL: Yes.

Mr HATTON: That is valid. One of the reasons why we produced these booklets was to identify those things and provide an opportunity for people to express their views. I do not need to be a great scholar to guess what the response would be and it would be a logical and rational response. You may be interested to know that it took some 30 years to change the entrenched rights of the original Commonwealth employees who were transferred to the new Commonwealth government on federation. There were High Court decisions entrenching those rights. They continued until those employees were retired out of the system. Thus, it is not a new process for Australia.

Mr YUELL: Yes, I have been in a school where teachers have been employed under half a dozen different terms.

Mr HATTON: At least, it needs to be recognised. It may be an issue that the commonwealth will raise. It may not be an issue that is raised by us but the Commonwealth may address it in relation to the rights in respect of Commonwealth service as distinct from the rights under Northern Territory service - rights of return, the seeking of promotion etc.

Mr YUELL: Okay. I turn now to page xx of the discussion paper on the proposed new state, Aboriginal rights. I will go through this as the items come up. It refers to appropriate guarantees of Aboriginal ownership of land and I am pleased to see that. There is certainly a need for that. But, in your introductory remarks this morning, you did not say that.

Mr HATTON: I did later on, though.

Mr YUELL: In your introductory remarks, you talked about guarantees of Aboriginal rights generally.

Mr HATTON: That was the matter of the preamble. That there should be specific recognition of the Aboriginal people and their prior occupation in some form of a preamble or otherwise in the constitution is a matter that has been raised to this committee. That is separate from the issue of Aboriginal land rights. The heading should say Aboriginal land rights.

Mr YUELL: I am pleased to hear that.

Page 5 refers to that again. On page 97, paragraph 8 refers to 'an enforceable statement of human rights entrenched in the new state constitution'. I would put it to the committee that there is a need to take on board, as part of the constitution, the Universal Declaration of Human Rights to which governments in Australia always seem to pay lip service but which some governments do in

fact infringe. I would like to see in the Universal Declaration of Human Rights as part of a Northern Territory constitution that could be enforced in law through the courts.

Mr HATTON: In the Northern Territory constitution as distinct from the Australian Constitution?

Mr YUELL: We are supposed to be leading the way in constitutional development, aren't we?

Mr HATTON: I raise the question because there are some issues which some people believe would be better dealt with at a national level rather than at a state level. It is a question that needs to be addressed. I am simply giving you the opportunity to address that.

Mr EDE: Are you saying that it should be in both?

Mr YUELL: Yes. Ideally, the federal government would take it on board too and incorporate it in the Australian Constitution. However, perhaps the Northern Territory could lead the way and indicate that this is a blueprint that the states and the Commonwealth should follow.

Mr EDE: Possibly we could word it 'to the extent that the Northern Territory government has the power under the Universal Declaration of Human Rights, it has that function'.

Mr YUELL: For example, everybody would agree that education is a state function. If you look up education under the Universal Declaration of Human Rights ...

Mr HATTON: Would you mind passing those comments on to Mr Dawkins?

Mr YUELL: I refer to page 126 of this copy of the declaration. It is article 26(3). I would like to demonstrate the need for this. When I was working for the Yipirinya School Council, that council tried for 5 years to have the school registered as a non-government school under the Education Act. For 5 years, it tried in vain and that was actually a contravention of article 26(3) in the Universal Declaration of Human Rights. It says that parents have a prior right to choose the kind of education that shall be given to their children.

Mr HATTON: Does that include the right for their children to have no education?

Mr YUELL: No. There are other rights which say that children have a right to an education. What I am putting to this committee is that parents have a prior right to choose the kind of education that their children will receive.

Mr HATTON: What if the parents chose to educate their children at home by themselves?

Mr YUELL: Yes, that can be done.

Mr HATTON: Provided there are certain conditions.

Mr YUELL: My parents educated me for a year or two.

Mr HATTON: But they had to meet certain conditions, is that right?

Mr YUELL: Yes, I believe so.

Mr HATTON: And there should be some standards set.

Mr YUELL: There should be some standards. As an educator, I would agree with that.

Mr HATTON: Therefore, there is a limitation on that right to the extent that you are determining certain minimum standards?

Mr YUELL: At that time, I was a band 3 officer with the teaching service on leave without pay working for the Yipirinya School Council. Thus, it was ironical to the extent to which I was involved in the education that those children were receiving ...

Mr HATTON: They were receiving the education?

Mr YUELL: They were receiving the education.

Mr HATTON: What they were not receiving was the funding?

Mr YUELL: Correct. They were not receiving the funding.

Mr HATTON: Thus, the right to choose this sort of education became a financial issue?

Mr YUELL: No. What I am saying to you is ...

Mr HATTON: Because they did not get registration, they did not get funding for classrooms and schools.

Mr YUELL: That is right.

Mr HATTON: Thus, it is a funding issue as distinct from ...

Mr YUELL: Therefore, the federal government at that time and the Northern Territory government at that time were in fact breaching article 26(3) by refusing the funding.

Mr HATTON: Did they close the school down?

Mr YUELL: No. They were trying to starve it out of existence by denying the funding.

Mr EDE: I think that that they were also in contravention of article 26(1) which says that everyone has the right to education and that elementary education shall be free and compulsory. Within certain principles, the parents shall decide on the kind of education. It is clear then that they breached one or other of those articles.

Mr HATTON: I am going to challenge this because I think you are wrong. Are you saying, for example, that the Northern Territory and federal government should fund 100% of the costs of the Darwin International Grammar School?

Mr YUELL: I am saying that, if parents choose that education for their children, yes maybe it ...

Mr HATTON: It should be free?

Mr YUELL: It should be free for them, yes.

Mr HATTON: Thus, you are saying that Melbourne Grammar, Shaw, Darwin International Grammar School, Marrara Christian College, every school in Australia, no matter how it is structured or whatever it is teaching and of whatever standard, should be 100% funded by the government as a matter of right?

Mr YUELL: What I am saying to you is ...

Mr HATTON: It is yes or no.

Mr YUELL: What I am saying to you is that there are mechanisms for ensuring that this declaration is in fact not breached and these mechanisms have been suggested in the past. One is that government should work out the average cost of educating a primary school child and say: 'Right, those parents now have a credit of \$3000 or whatever it is'. It would provide them with a credit slip and the parents could then present that at the school of their choice. I would support that.

Mr HATTON: Thus, whatever funding would result from what they get by way of credits?

Mr YUELL: That is right. Yes.

Mr HATTON: And the number of students that they are able to attract.

Mr YUELL: Yes. I would support that as a matter of principle. I may not get much support from the Northern Territory Teachers Federation of which I am a member. However, as a point of principle, I support it.

Mr HATTON: Following from that, presumably each of those schools would operate independently.

Mr YUELL: Each school would then get its funding via the number of parents who presented their credit slips.

Mr HATTON: The open market.

Mr YUELL: Yes.

Mr HATTON: Thus, you would give each student a credit slip of \$x.

Mr YUELL: Each parent for each student.

Mr HATTON: For each student that they have going to school and that voucher can be cashed by whatever school they choose to go to.

Mr YUELL: Yes, that is right.

Mr HATTON: If they want to go above that, they can pay the extra money themselves or whatever.

Mr YUELL: That is correct.

Mr HATTON: Okay. Suppose they choose to attend school X which decides that it does not believe in teaching reading, writing and mathematics. It will only teach the Quaker religion.

Mr YUELL: I also have sympathies with the Quakers.

Mr HATTON: Or whatever. The Hare Krishna religion and will teach nothing else.

Mr YUELL: I share your prejudice against them.

Mr HATTON: I am trying to say that the particular school will not teach those things that society needs. The child has a right to an education which will enable it to participate fully in society.

Mr YUELL: Yes that is right. It is up to government to register schools.

Mr HATTON: Right. On what basis do you register schools? Minimum standards?

Mr YUELL: Yes. Minimum standards, but not ethnocentric standards. What seems to have happened in the case of Yipirinya is that ethnocentric standards were used to try to judge the worth of the education that those children were receiving.

Mr HARRIS: Steve, I must come in because I was the minister involved when Yipirinya was registered.

Mr HATTON: You registered the school.

Mr HARRIS: Yes. If you talk about government constitutional responsibilities for providing adequate education, it is important that there are standards.

Mr YUELL: Yes, I agree with that.

Mr HARRIS: You must have standards and they must be adhered to. I met with the Yipirinya council at that time. One of my concerns was that, when I wanted to see a class or something happening, they could not take me out there and show me what was happening. All the department wanted to be assured of was that the children were being taught adequately. The issue dragged on. I believe that the difficulty could have been resolved very quickly if we had been shown what was being done. This comes back to perceptions. I acknowledge the whole exercise was not one that will go down in my memory as a success. However, there was a bit of history prior to that in relation to the school being established. There has to be standards.

You have been involved with Aboriginal education and it is something that I am particularly interested in myself. When you Aboriginalise schools, there is a problem resulting from the various groupings in the particular community. We would be aware of this in respect of Milingimbi. There

are some Aboriginal people who are saying that there are too many of a particular group teaching in a particular school. Therefore, they move their kids out and take them to the bush. It is very difficult to provide education under those circumstances. This is the problem that governments have. They are trying to make the whole Aboriginal education system work. There are enormous amounts of money being poured into Aboriginal education and, again, I do not think people are aware of the enormous costs. In many instances, the money is wasted. We need to examine these issues. How do you see Aboriginal education in the context of the state having the responsibility of providing education to those kids?

Mr HATTON: Educational opportunity.

Mr YUELL: The end point must be that Aboriginal people have control of the education of their children, just as I have control of the education of my children.

Mr HARRIS: But there are problems in reaching that goal. We set up a school and provide the opportunities for Aboriginal people to take their children to school to be educated and, unfortunately, because of their cultural traditions, some are unable to make use of that particular facility. Those are the sort of difficulties that we have.

Mr YUELL: Obviously, that is a matter for local people, whether they are Aboriginal or non-Aboriginal, to work out for themselves. In the past, we have been quite happy for non-Aboriginal people in an isolated community to work out those issues via their school council, haven't we? When there has been friction between ethnic groups for example. What I am suggesting is that, in relation to Aboriginal education, we should let Aboriginal people work out those problems themselves instead of trying to solve them for them.

Mr HARRIS: Can I indicate that that is exactly what the government is trying to do. In fact, we are pursuing that with great vigour. However, in Hermannsburg, for example, there are 10 groups or homeland centres and there are another 18 within 30 km. The problem is that all those people want to set up their own little groups and teach the children in their communities. It is a very difficult task. If the Commonwealth wishes to be a partner in providing schools to all those isolated communities, fine. However, there are real problems and we can only move slowly in trying to address them. I take on board what you are saying and indicate that the government is moving in that direction. We have a responsibility under the constitution to provide education to the people in the Territory and we are trying to do that. We are listening to what the Aboriginal people are saying in that regard.

Mr YUELL: Certainly, it is a difficult task but it is the way to go. If you say to those people, 'Sorry, we cannot give you education out bush, you have to come back into school', you are really denying them the right that is stated in the Universal Declaration of Human Rights.

Mr HATTON: You do accept that the government has certain budgetary restrictions on its ability to do things.

Mr YUELL: Yes, and that is why I suggest that this voucher system might work rather well.

Mr HATTON: But, do you realise it costs about 3 or 4 times as much per student to educate a person even in a large Aboriginal community to what it does in, say, Darwin or Alice Springs.

Mr YUELL: Maybe the Territory government, if it could see its way clear, or the federal government could top up the voucher for a disadvantaged child. This is being done already through a system of grants to disadvantaged schools by the Commonwealth Grants Commission.

Mr HARRIS: That is another program which has severe problems because the efforts that have been made by people are destroyed when funding is withdrawn after 5 years. These are matters that have to be addressed and the government is addressing them. That is another issue and I think really that the point has been taken

Mr EDE: I would like to come back to the constitution if I could. You were talking about the need to have the Universal Declaration of Human Rights acknowledged in the constitution. You referred specifically to article 26(3) which says that parents have the prior right to choose the kind of education that is given to their children. You stated also that you believe that the government had the obligation to set various minimum standards of education.

Mr YUELL: Not ethnocentric standards.

Mr EDE: On a non-ethnocentric basis. I would like to take further your agreement that that would imply an obligation under article 1 for people to obtain free education at, say, Darwin International Grammar School. Wouldn't you agree that the kind of education relates more to the ethnicity of people or their religious beliefs rather than the levels that people may aspire to above the minimum level? In other words, if people believe their children can obtain a higher level of education than that provided by schools which provide the minimum standards laid down by the government by sending their children to schools which have a smaller pupil teacher ratio or whatever, there is no obligation, under the Universal Declaration of Human Rights, for the government to pay for people's desires in that regard. The obligation on the government is to provide that minimum standard.

Mr YUELL: That is right. The minimum standard may be upheld through the voucher system. It can then be seen to be fair and to be upholding these principles.

Mr EDE: I do not want to get into the ways and means that we do this. I wanted merely to establish the point that the rights under that declaration are for the minimum standard of education and they do not relate to people's desire for something way above that standard.

Mr YUELL: No, if parents want to chuck in \$10 000 to send their kids to Scotch College or Geelong College, where I went, that is up to them.

Mr EDE: Fair enough. I wanted to establish that.

Mr HATTON: I have not been making these points in order to be pedantic. I simply wish to indicate the potential legal quagmire that you could be leading the community into by inserting a broad statement of principle such as this into a constitution. We have heard a number of conflicting views or interpretations in the course of this discussion. When you insert broad statements in a constitution, which is a very powerful legal document, you then open up a marvellous field of work

for the legal profession. The aspect of the Australian Constitution that has given rise to the most litigation is the very simple section that says that trade and commerce between the states shall be absolutely free. That is a very simple, clear statement. It is the most litigated section of the Australian constitution.

You have drawn 2 elements out of this particular declaration and interpreted them on the basis of a situation that you were in. Other people may draw other conclusions from them. Can you see the potential legal quagmire that may be created by writing that into the constitution as distinct from adopting a convention and using the mechanism of the protection of the common law which exists in Australian society? I believe this convention has been adopted by Australia and therefore that has a legal implication for the states and the Northern Territory.

Mr YUELL: My concern is that the Commonwealth government has agreed to the convention but everybody merely pays lip service to it. Yipirinya was an example of parents trying to choose the kind of education that they wanted for their children under article 26(3).

Mr HATTON: But they were not denied that.

Mr YUELL: They were denied that in so far as they were denied the funding for it.

Mr HARRIS: But that was a result of their not providing the information that was required.

Mr YUELL: That may well be, but I was teaching oral English. Every morning, I went around 3 fringe camps and taught oral English for an hour.

Mr HATTON: I wanted to draw that issue out because I think that it is worth noting the potential implications of broad declarations.

Mr YUELL: I suggest to you that, in time, the court rulings would be made and precedents established. The problem would work itself out.

Mr SETTER: Ian, you indicated that you have the right to choose the form of education for your children.

Mr YUELL: Yes, I do.

Mr SETTER: I assume that you mean in the existing education system.

Mr YUELL: Yes. I have taken my children out of a government school and I have put them into another government school. I could also take them out of that government school and send them off to Melbourne Grammar School.

Mr SETTER: But you said that Aboriginal people do not have that right. I wonder if you could clarify that point for me.

Mr YUELL: No. They do have that right. What I am saying is that they should have that right to choose. If they choose to send their children to Traeger Park, I would support that 100%.

Mr SETTER: But surely they have that right now.

Mr YUELL: Yes, they have that right now. However, before 1983, they did not have the right to send their children to Yipirinya school because Yipirinya was not registered and did not have the wherewithal to deliver the full education that the parents wanted for their children. That is the kind of education that those parents wanted for their children.

Mr SETTER: I am not familiar with Yipirinya but, quite obviously, at that stage, it was not within the Northern Territory education system.

Mr YUELL: The parents wanted to set up that school within the government school system.

Mr SETTER: If I could just interrupt there, we have really discussed Yipirinya at some length this morning. I was interested in your comment about Aboriginals not having the right to decide on the education for their children within the existing Northern Territory education system.

Mr YUELL: If that education system is too ethnocentric and if it does not allow for genuine Aboriginal choice, what sort of a choice is there?

Mr SETTER: That is a matter for the Department of Education

There is something else I would like to raise with you. You commented in your introductory remarks that you gathered from my remarks that the Northern Territory government was trying to grab as much power as it could with statehood.

Mr YUELL: Yes, that is right. Grab for power: that seemed to be what you were saying.

Mr SETTER: Well I did not use the word 'power' at all. I was talking about control.

Mr YUELL: Yes, you used the word 'control'.

Mr SETTER: I did indeed. But the reality, of course, is that with statehood you gain control ...

Mr YUELL: And you get the power.

Mr SETTER: ... over a number of state-type functions. It is my opinion that, when we opt for statehood, we should accept nothing less than equal rights, powers and controls as all the other states currently have.

Mr HATTON: There is no dispute about that, but one should recognise that control by the parliament is control by the people through their parliament. I think that is the point that is really being made.

Mr YUELL: I would like to raise a couple more points. Page 101 relates to the question of the number of Senators. I would like to follow on from what Vince Forrester was saying earlier about obtaining Aboriginal representation or a way of demonstrating that real power is being passed to Aboriginal people. The question was raised as to how the electorates could be drawn to achieve that. What I would put to you is that nearly half the land in the Northern Territory is now officially Aboriginal freehold title as opposed to ordinary freehold title.

Mr HATTON: Or under claim.

Mr YUELL: Or under claim. Maybe about half of the 12 Senators should be elected from that land. Before you dismiss that idea out of hand, I would put it to you that the Senate is there to represent a state, regardless of the number of people in it. Tasmania has the same Senate representation as Victoria, hasn't it?

Mr HATTON: Yes.

Mr YUELL: And Victoria has probably 7 or 8 times as many people. If the committee wants to show Aboriginal people that it is genuine about giving Aboriginal people a real say in the future of the Northern Territory, then the electoral boundaries would be redrawn according to Aboriginal land and non-Aboriginal land and half the Senators from the Northern Territory would be elected from electorates from the Aboriginal land ...

Mr HATTON: The Australian Constitution does not allow for that.

Mr YUELL: ... and the other half would be drawn from electorates on non-Aboriginal land.

Mr HATTON: It is an Australian Constitution matter; it is not a Northern Territory constitution matter.

Mr YUELL: No, I am putting it to you that this is an idea whereby you can demonstrate that you are genuine about giving real power to Aboriginal people.

Mr HATTON: We do not have a say over it. It is a federal electorate process; it is a federal government matter. The Senate is elected through federal legislation, under the Australian Constitution, not a Northern Territory constitution.

Mr YUELL: I am proposing that this committee support that recommendation.

Mr HATTON: That 50% of the Senators be elected from 22% of the population.

Mr YUELL: Look, you have already agreed that the whole point of Senate representation is not according to the number of people in the land mass. I am asking you to translate that over to the Northern Territory. When statehood comes, the Northern Territory should have 12 Senators sitting in the Senate to represent the people of the Northern Territory. Since approximately half of the land mass of the Northern Territory has a legally different form of land title over it - Aboriginal freehold title - half of those Senators should come from that land area.

Mr EDE: Would you extend that to the pastoralists?

Mr HARRIS: Mr Chairman, it is a view that I do not think relates to what the Senate is about. The Senate is there to look after the states in terms of equality. It is an interesting proposal that is being put forward but it is one that would be hotly debated. We take on board what you are saying.

Mr HATTON: You are aware that the Senate representatives are elected from a unitary area - the state boundaries. There are no subdivisions within the states. I know you are putting forward a concept but, under that same argument, 80% of the Senators in Australia would come from the pastoral industry. They have a special form of land tenure also. With 12 Senators, under the proportional representation system for the Senate vote, you could almost certainly ensure that there would be at least 2 Aboriginal Senators if they were popular among Aboriginal people.

Mr YUELL: This committee is concerned with statehood for the Northern Territory, not other constitutions in other states and what other states do.

Mr HATTON: The method of electing the Senate is very much a matter for the federal parliament.

Mr YUELL: But I am saying that the principle applies. Vince Forrester was talking about the Northern Territory being unique because it is a nation within a nation, as it were, or a state within a state. There is some truth in that.

Mr SETTER: Are you advocating the establishment of a separate Aboriginal state?

Mr YUELL: No, I am just saying to this committee that it should face reality and the reality is that nearly half the Territory is Aboriginal freehold title which is a legally different kind of freehold title from the other half of the Northern Territory.

Mr HATTON: That is not particularly relevant.

Mr YUELL: All I am saying is that that is ...

Mr HATTON: There are a multitude of different land tenure systems operating in the Northern Territory.

Mr YUELL: Yes, but there is only one Aboriginal freehold title.

Mr HATTON: That is right, but there are a multitude of other, legally recognised forms of land tenure.

Mr YUELL: All I am suggesting to this committee is that, if it is looking for a mechanism for getting genuine Aboriginal representation in the Senate - because Aboriginal people are real Territorians and they deserve proper representation ...

Mr HATTON: As Territorians.

Mr YUELL: As Territorians. But the reality is that the Northern Territory has the highest proportion of traditional Aboriginal people of any state in Australia.

Mr HATTON: Yes.

Mr YUELL: That is the reality and you cannot get away from that. You cannot say that they are 33% of the population but really they are just the same as us. They are not the same as us. That is the reality. They have completely different value systems and completely different ways of thinking.

Mr HARRIS: No one is questioning the reality of that, but I have made it clear during the course of the hearing today that the government looks at all those issues. We have heard the point that you are making. There are very real problems in relation to your suggestions. They are suggestions and they will be taken on board but I think that there are many issues that must be considered in relation to that concept. There should be no attempt to split the Aboriginal people away from the Territory people. It is acknowledged that they have their cultural differences and there is no question about that. Those aspects have to be taken on board by the government and they are being taken on board whether they relate to health, education or whatever. You are putting forward a proposal and I am saying that it will be considered. However, there are other issues arising from that which will create very real problems. It could split the Territory on a whole range of things and make it very difficult for us in the future.

Mr YUELL: Talking about a state within a state is highly emotive but I would say to the committee that we have a culture within a culture.

Mr HATTON: We have a multitude of cultures within a culture.

Mr YUELL: But, as Vince Forrester was saying, the Aboriginal culture really has to be recognised as being the indigenous culture and one that has prior special claim over other cultures.

Mr HATTON: No one has really disputed that particular point.

Mr SETTER: But Aboriginal people, of course, have the right to form political parties and to select their candidates and stand in elections. At this time, they have chosen not to do that and they have that right, the same as anybody else has. As I said, at this time, they have chosen not to do that but, in many instances, to throw their lot in with a particular political party. That political party has chosen, particularly in electorates in the south here, not to preselect Aboriginal candidates. It has that right. That is up to the Aboriginal people.

Mr YUELL: As I said, I have never belonged to any political party. I am not a party man at all

Mr HATTON: I think we are straying from the subject. I am conscious that it is getting very close to adjournment for lunch.

Mr YUELL: I have one final issue to raise and I refer the committee to pages 137 and 139 of the discussion paper. There is mention of the official languages of Canada. This follows on from what I was saying earlier about not only acknowledging the place of Aborigines in the Territory but actually doing something concrete when drawing up a constitution for the new state. Perhaps Aboriginal languages should have the same status as English, for example, in courts of law and in schools.

Mr HATTON: How many Aboriginal languages are there in the Northern Territory?

Mr YUELL: There would be about 100, wouldn't there?

Mr LANHUPUY: That would be in Milingimbi alone.

Mr YUELL: Yes, there are a lot. But all I am saying is that, if it were acknowledged that it was permissible for an Aboriginal language to be spoken in the parliament, and at the moment I believe it is not ...

Mr HATTON: Yes, it is. In fact, we have had a number of interesting speeches presented by a member in Pitjantjatjara.

Mr YUELL: Yes, but I believe that that was actually an infringement of standing orders, wasn't it?

Mr HATTON: Yes.

Mr YUELL: Yes, it was an infringement of standing orders.

Mr HATTON: There was straight tolerance expressed by the members of the Assembly.

Mr SETTER: That is right, except nobody understood what he was saying.

Mr YUELL: What I am saying to you is that, when you draw up this new constitution, if you want to be seen to be paying more than mere lip service to Aboriginal culture, one way to do that is to enshrine that an Aboriginal language, whichever one of the 90 it happens to be ...

Mr HATTON: I think it is more than that actually.

Mr YUELL: ... has the same status and is accorded the same acceptance in courts of law, in parliament and in schools as English is, in the same way that official languages are enshrined in the Canadian Constitution.

Mr HATTON: We actually have to be able to communicate with each other as citizens. I will tell you now that I do not intend to have the entire Northern Territory community learning 301 languages. In Indonesia, there is protection for the continuation of some 900 different ethnic and language groupings in the Indonesian community yet Indonesia still has a common national language. There are ways of dealing with this without destroying the ability of Northern Territorians to communicate with each other.

Mr YUELL: I guess you simply need to find more money for translators.

Mr HATTON: There arises a question of practicality and approach.

Mr EDE: There are possibilities between the 2 extremes. We seem to be talking about absolutes. There is the possibility, for example, of people having the right to speak their own language in court and have adequate translation facilities available so that all persons in the court understand each other. A similar process could be instituted for schools. For example, x% of the school curriculum could be taught in a certain language and at certain levels or whatever. A parliamentarian could opt at his first sittings to speak in a certain language. There would be problems with translation, of course, but I am mindful of the fact that the Papua New Guinea parliament is conducted in 3 languages which are simultaneously translated. Many other parliaments are conducted in more than 1 language. Thus, there are ways that this matter can be dealt with between the 2 extremes which perhaps we should look at in the context of the language policy.

Mr HATTON: I think there are points there that are worth addressing. Are there any further points?

Mr YUELL: No. Thanks very much for your time.

Mr HATTON: Thank you. You have certainly raised some interesting and stimulating issues for us to consider and I mean that quite seriously.

Mr YUELL: I am sorry that I did not have time to prepare a written submission, which I should have.

Mr HATTON: You are certainly welcome still to do so. The committee will be meeting for some time. It is probable that there will be further hearings in Alice Springs at a later date. We recognise that we are really introducing the subject. The opportunity is still available for people to present written submissions or to seek an opportunity to speak later. There are still some 9 months before we are required to report to parliament. There is plenty of time for people to express their views.

Mr YUELL: Good. Thanks very much for your attention.

Mr HATTON: I now adjourn this committee hearing until 3 pm.

Hearing resumed at 3 pm

Mr HATTON: I call the meeting to order and welcome the representatives of the Alice Springs Council to present submissions. I extend a particular welcome to Mayor Oldfield, Alderman Bob Kennedy and Acting Town Clerk, Gail Petty. We have received a written submission from the Alice Springs Town Council. I understand you wish to speak to that.

Mayor OLDFIELD: Mr Chairman, in November 1987, the council was invited by the select committee to make a submission on the issues of constitutional development either in general terms or with reference to specific issues. The council resolved to respond to this invitation by forwarding a submission promoting the entrenchment of the local government concept within the new state constitution. I now formally wish to present the council's submission to the committee.

This submission proposes a method of providing for local government in a way which will encourage more positive regard for that sphere of government which is closest to the community. Existing state constitutions exhibit certain uniform features, having been established by similar acts of the British parliament during the period 1850 to 1891. In broad summary, there are a collection of measures which delineate the powers of the states in very general terms as power to legislate for the peace, order and good government of each particular state. The Australian Council for Intergovernmental Relations has suggested that the generality of state constitutions perhaps provides one reason why it is rare for them to be relied on in litigation and why, therefore, the possibility of unfavourable judicial interpretation constitutes less of a deterrent to the inclusion of new provisions. It is likely that a more convincing reason for not relying on existing state constitutions is that they exhibit a degree of flexibility which is not always entirely advantageous. Thus, provisions relating to local government or, for that matter, to any institution or process whatever could be removed, as a matter of law, from a state constitution as easily as it was included unless the provisions are entrenched.

The council is gratified to note the views of the select committee that it favours some degree of entrenchment for the whole of the constitution and agrees that the form of entrenchment should underline the accountability of parliament to the electors rather than to the federal parliament. The council would urge that among the other matters which may be included for entrenchment should be the recognition of local government as an autonomous delegate of governmental powers. Further, the council urges that the entrenching provision should itself be entrenched, a process which, as the select committee will be aware, constitutes double entrenchment. As to the manner and form to be prescribed in the entrenching provision, the council suggests that, once local government has its existence guaranteed by entrenchment, there should be a requirement for a referendum to be held in order to change the provision. A two-thirds majority would be an appropriate gauge of support for change.

The council submits as reasons for constitutional recognition, those which have previously been identified by the ACIR in its Discussion Paper No 3 of 1980 and these are: safeguards against arbitrary dismissal; guaranteed autonomy to a degree which is fitting for an elective representative sphere of government; guaranteed powers and consequent removal of the threat of challenge under the doctrine of ultra vires; guarantee of democracy even to the extent of entrenching a local government franchise in the constitution itself; and status and recognition which, although not an automatic consequence of constitutional recognition, would be a more likely result.

Appendix A, which was attached to our written submission, contains an extract from ACIR Discussion Paper No 3. The council places reliance on the contents of this extract as support for its submission and believes that it underlines the validity of the reasons previously advanced by the Northern Territory Local Government Association and referred to in the select committee's discussion paper.

The council believes that, in order to meet the criteria previously referred to for meaningful recognition, the entrenched provision relating to local government should go further than just formal recognition but perhaps not quite as far as the 1979 amendment to the Victorian constitution in relation to the details of the franchise. With this in mind, the provision should state that there will be a system of local government by bodies constituted of elected members who hold office from election to election but who may be dismissed by the parliament only after due inquiry and only on the ground of gross misconduct. It should state that the council of an area has all of the powers necessary for the peace, order and good government of the area subject to the normal precedence of state legislation. It should state also that, in respect of the fiscal powers which councils are accorded, these may be exercised without unreasonable limitation being imposed by the state.

Mr Chairman, unfortunately, the Town Clerk who prepared this submission is away at present. He will be very sorry to have missed the hearing today. However, we hope our submission covers those aspects pertinent to local government and we thank you for the opportunity of presenting it formally to you.

Mr HATTON: Thank you very much, Mayor. It is quite a considered submission, I might say, on the issues involved. Inevitably, it leaves a number of questions unanswered, as I suppose many submissions do. Perhaps you may like to make further submissions on some of those issues.

Mayor OLDFIELD: Perhaps the committee could ask questions and, if we are unable to answer, we could make further submissions on those matters. As I indicated, the submission was

prepared by the Town Clerk who is very much across the subject. Unfortunately, he cannot be here to support us today.

Mr HATTON: I appreciate that. You talk about constitutional recognition of local government. Would it be reasonable to assume that that would not encompass the view that there should be a constitutional guarantee of the existence of local government across the entire area of the Northern Territory? As you would be aware, there are significant tracts of the Territory that are not covered by any form of local government at the moment. Should we cover the entire Northern Territory by some third tier of government structure or merely provide the capacity for that to happen?

Mayor OLDFIELD: My personal opinion on the matter, and probably Bob can say what he thinks too, is that provision should be made for it. However, I can see the problems in the Northern Territory. There could be difficulties in the early stages but the provision should be there for local government to be implemented at a later stage as required.

Mr HATTON: Thus, you are talking about a right to move towards local government rather than a requirement to have it.

Mayor OLDFIELD: Yes. I believe that.

Mr KENNEDY: The only other comment I can offer, Mr Chairman, is that there might be some benefit for the Territory in terms of attracting funding if it covers the whole of the Territory. However, the extent to which it could create problems needs to be recognised.

Mr HATTON: It doesn't have any financial implications. Fundamentally, we have now broken the barrier in respect of population within local government areas. The Local Government Grants Commission is looking at areas outside statutory local government areas as well because PITS funding now extends beyond the populations within local government areas.

Mayor OLDFIELD: I am not sure that we actually discussed that in council.

Mr HATTON: It may be a matter that you would wish to address anyway.

Mr KENNEDY: Are you thinking of the position of shires etc in the outlying areas?

Mr HATTON: The Northern Territory has significant areas that are not within shire or community government or local government areas. The question is whether we should provide the right for such areas to enter that third tier of government or whether there should be an obligation placed on them to do so.

Mr KENNEDY: To the extent that I recall discussion on this issue at the Northern Territory Local Government Association, I have a feeling that the option is to provide for the existence of shires in the outlying areas. You would need to check that with Charles Gurd and Noel Lynagh but that is my recollection of the discussion at the time.

Mr HATTON: I suspect it is. I was really trying to clarify that.

The expression 'for the peace, order and good government' is all-encompassing terminology. As you know, between the Commonwealth and the states, there is a division of powers. Do you envisage that there should be some powers for local government that are constitutionally provided.

Ms PETTY: I think that there should be some recognition of powers and that they should be defined in some way. I think that the governmental responsibility between the state and local government has become blurred as a result of the way things have evolved. The constitution needs to recognise local government, perhaps not specifically, but to some extent, if I make myself clear.

Mr HATTON: I really am not trying to be trite but, using as an extreme example, should the constitution provide, for example, some of the specified powers that currently exist in the Local Government Act as being powers of the local government with perhaps a concurrent or exclusive powers breakup between the state government and the local governments in a new state? That is one option. The other option is to provide for the existence of local government which will have powers that may be determined by legislation, as they are now. I was seeking to clarify that particular point.

Ms PETTY: There are 2 ways.

Mr HATTON: I know it is not a matter you can discuss off the top of your head but it may be an issue you would want to address. The general practice in the states is provision for a general power of local government with definitions occurring through local government legislation.

Mr KENNEDY: The ACIR appears to opt for ...(inaudible) ... then give it the necessary powers in general areas and then have these things applied to whatever local government takes up as issues further down the track.

Mr HATTON: Provides a competence area which is determined through a legislative process. That may be an appropriate way.

Mr EDE: On the form of recognition, you say: '... but who may be dismissed by the parliament only after due inquiry and only on the ground of gross misconduct'. Thus, you are stating that the dismissal has to be not by the minister but by the parliament itself and that, prior to that, there must be an inquiry and that the only ground for dismissal is gross misconduct.

Mayor OLDFIELD: Yes. That is what we said.

Mr EDE: Right. Given that the parliament may then dismiss the council, are you saying that an election for a new council must be held within a specified time? You could have a situation where an administrator is installed and you could have a Sydney City Council setup and there is no council.

Mayor OLDFIELD: I believe that is in the Local Government Act as it stands now and that should be picked up and followed through. Yes.

Mr EDE: Do you believe that should actually be in the constitution or are you happy with its being in the Local Government Act?

Mayor OLDFIELD: As long as the act is not changed by the new constitution. Maybe it would be worth while to have it in the constitution.

Mr KENNEDY: I think it is something that needs to be in the constitution.

Mr EDE: You believe it should be in the constitution rather than the act?

Mr KENNEDY: I think that matters relating to existence, dismissal and general competence powers etc need to be in the constitution. None of us is interested in having too much detail in the constitution. As you stated in your paper, the constitution should deal only with those matters considered to be of vital importance to the functioning of the state. The sorts of things that we are talking about are of vital importance to the functioning of the state and the existence of local government.

Mr HATTON: What we are looking for is some form of words which may be part of the select committee's recommendations in relation to a draft constitution that we would put before the Legislative Assembly.

Mr KENNEDY: Are you looking for those from council or ...

Mr HATTON: That is what this process is about. The discussion document raises the issues. We are now seeking a feedback from the community to start to identify and refine the views of the community so that eventually we can prepare a draft constitution for recommendation to the Assembly and which the Assembly would refer to a constitutional convention.

In item 2 of your submission, you mentioned 'guaranteed autonomy to a degree which is fitting for an elected representative sphere of government'. Are you able to expand on that aspect? Item 3 refers to the inability to be removed for example.

Ms PETTY: I think that we are referring to autonomy in the sense of decisions of the local government not being subject to the approval of the state government as is the case today.

Mr HATTON: I understand that.

Mr EDE: Therefore, you are saying that you should have autonomy in respect of powers and functions laid down in a constitution or delegated under a constitution which you hold concurrently with the government or in your own right? You are saying that your decisions with respect to these should not be subject to ministerial approval or veto?

Ms PETTY: Yes.

Mr HATTON: That is the same thing we are asking of the federal government.

Mayor OLDFIELD: You can understand why we are asking for it.

Mr HARRIS: I happened to be on the council of the ACIR at the time that those hearings were taking place. It was interesting to note that some local governments were trying to hand back hard-won powers - in Victoria for example. Thus, there needs to be some flexibility there. I also noted that many councils were starting to become involved in other areas such as welfare and that frightened the living daylights out of me and many other people as well. They said that the council was looking after the interests not only of people in a particular area but also looking after the interests of people who came into the community, transient people. There is some concern there. Those are a couple of the points that were raised at the ACIR hearings.

Mayor OLDFIELD: There is a push to have local government in what may be termed human services areas. It is a bit of a problem when you try to keep a certain distance from it but I agree that there is a problem there.

Mr HATTON: That was one of the areas I anticipated would need to be addressed when discussing the matter of division of powers.

Mr KENNEDY: Could I suggest that that is one of the reasons why general competence powers and subsequent negotiations outside of the constitution seems to me to be the way to go. I think we have learnt a lot from the Victorian situation where local government achieved certain powers and functions and then found them to be too expensive or inappropriate for local government. As you say, they are now trying to divest themselves of them.

We commented in our submission that we would like to see local government as an autonomous delegate of local governmental powers. I have a feeling that there is a current climate within the Territory government, both at senior officer level and senior political level, that the Territory government could well get out of some of the things it is involved in. I refer to such things as legislation relating to dogs and caravan parks etc. In respect of those sorts of things, local government, within its own area, could be an autonomous delegate to a minister. We are suggesting that those sorts of things need not be handled at a Territory government level. I would not like to see that in the constitution but I would like the constitution to provide for that autonomy.

Mr HATTON: Yes. You are accurately describing views.

Mr HARRIS: Thin end of the wedge.

Mr HATTON: I would like to make it crystal clear that the Alice Springs Town Council has responsibility for stray cats in Alice Springs.

Mayor OLDFIELD: We do not want that one.

Mr EDE: Are you talking about putting in the constitution an overall power to delegate and, once a power is delegated, the local government would become autonomous in relation to it? The person who delegates the power would not have the power to remove that delegation once it has been made?

Mr KENNEDY: I think there would be safeguards. However, if a power of removal is there, it should not be simply at ministerial discretion.

Mr EDE: It would be a provision to the effect that a minister may delegate but only parliament may remove it ?

Mr KENNEDY: Why couldn't both be done by parliament?

Mr HATTON: What you are saying is that, having delegated a power to local government, the local government will can make its own decisions which are not subject to ministerial approval or veto.

Mr EDE: Yes, but if the government disagrees with how the local government is using that power, how can it get that power back or can it never get the power back? Is it done by agreement or by parliament?

Mr HATTON: You refer to the guaranteeing of democracy even to the extent of entrenching the local government franchise in the constitution itself. Could you explain that more clearly?

Ms PETTY: The traditional view is that local government is the level of government closest to the people. This should be recognised in the constitution but only in so far as guaranteed through including the franchise provisions in the constitution, not the concept of democracy. I am becoming mixed up.

Mr HATTON: It is the electoral process.

Ms PETTY: It is the franchise provisions that we would like to have entrenched in the constitution rather than any great detail. Can you see what I getting at?

Mr HATTON: It is the right to be elected.

Mr EDE: How would that apply in a small community government area where, in forming their community government, the people may wish to set up a system which reflects not one person, one vote but traditional authority lines?

Mr KENNEDY: You would have to ask them.

Ms PETTY: We do not have that problem.

Mr HATTON: But, if you write it into the constitution, it would not allow the flexibility to deal with that.

Mr KENNEDY: I would have thought that you could still guarantee some sort of franchise situation and make that flexible enough to cater for all the diverse needs across the Territory. I still believe that it has to be within the constitution but I take the point that it will need to be carefully worded.

Mr HATTON: The franchise provisions relate to things like 1 vote, 1 value etc or the right of people in a community to determine the way they will go about voting.

Mr KENNEDY: I think that is what you are coming to. Somehow or another it has to be worded that way.

Mr HARRIS: Again, there was concern that people who had properties in the main city areas yet lived outside the local government boundaries did not have the right to vote even though they could be directly affected by decisions of the council. Such matters have been raised from time to time.

Mr KENNEDY: Yes, obviously that non-resident franchise is a very prominent issue in Alice Springs where, particularly in the CBD, much of the property is owned by non-residents.

Mr HATTON: That is another interesting matter for your council to turn its mind to in respect of further submissions.

Mr EDE: A delegation of power may matter little in reality if the local government does not have the funding capacity to carry it out. Do you envisage that the constitution should address anything in that regard?

Mr KENNEDY: I suggest that the delegation involves an acceptance and that acceptance will involve the issues you have raised. The mistake made by many of the Victorian councils was that they became involved in these human services areas without determining who would pay. I

think you would find that local government in the Territory is unlikely to go down that track. Indeed, we have been fortunate, when we have taken on such things as services for youth, that the Territory government has provided the funding or at least a substantial subsidy. Irrespective of whether or not it is included in the constitution, I think the attitude of local government to any form of delegation would be the same. I do not see that you could put that into the constitution.

Mr EDE: What about the question of discrimination in terms of funding for councils? What if the government does not have enough evidence to abolish a council on the ground of gross misconduct, but starves it of funding? Do you feel that there should be a provision to the effect that, within whatever formulae are adopted regarding population, CPI, need etc, funding should be equal across the Territory?

Mr KENNEDY: We have confronting us already a difficulty that is totally outside of what we are discussing today. I refer to what will happen in respect of federal funding in the next year or 2 and how it will be distributed among disparate local governments across the Territory. I do not have an answer to your question except to say that, again, it will require some very careful working to cover this Territory situation. If you looked at the 4 or 5 municipal councils only, it would be fairly easy to come up with some sort of basis that you could put in the constitution but you cannot do that because the constitution has a broader application than that. I do not know whether that answers your question, but I recognise the problem.

Mr SETTER: ... (inaudible) ... within the constitution.

Mr EDE: No, it would have to be relate to the Grants Commission such as the Grants Commission defining various factors which are applied across the board. Do you think the constitution should have a provision which removes any possibility of political patronage towards a council or group of councils or whatever right across the Territory?

Mr KENNEDY: Dare I say that I feel that there is less risk of that in the Territory than there is federally. Having said that, I do not know whether you could provide for that in the constitution.

Mr HATTON: My view is that you could not.

Mr EDE: You can put in anything that you like.

Mr HATTON: You can write it in but it just will not work. I think the constitutional document sets out basic rights and duties. It does not come down to saying that you shall not discriminate against a council in respect of financing. It is a beautiful thought.

Mr KENNEDY: Yes, it is a nice idealistic thought.

Mr HATTON: The reality is that, in our budgetary and financial processes, we must recognise that there is a role for the constitution, a role for the legislature and a role for government administration. The mechanisms for assessing funding allocations are determined through legislation. For example, there are the taxation rights and the right to choose methods of rating. The structures of taxing powers are probably best dealt with by way of legislation.

Mr KENNEDY: Oh yes. Otherwise it would be too difficult to change.

Mr EDE: The Tangentyere Council operates local government-type functions totally within the municipality whereas previously it was partly within and partly without the municipality.

Mr KENNEDY: It is probably wholly within.

Mr EDE: Do you see the powers you were talking about being devolved in such a way that different people had different powers and functions in relation to certain geographic areas or, if that was to exist as a local government body, those parts would have to be excised from the council area? Have you addressed that problem at all? Have you any ideas on that?

Mr HATTON: Perhaps I should advise that Tangentyere Council has made a submission to this committee seeking that the constitution ensure that an Aboriginal local governing body is recognised and can exist within another local governing body's boundaries. Thus, you would have a council within a council.

Mayor OLDFIELD: It has been talked about previously. I have spoken to the Town Clerk about this and with somebody from Tangentyere some time ago. I understand that there would be some big problems associated with it.

Ms PETTY: I think that it would pose quite a few problems and I do not think that the constitution would get to that level of detail. As far as the Alice Springs Town Council is concerned, the Tangentyere Council is resident within our area. It pays rates like any other occupants of property, but that is as far as it goes. It would be extremely difficult to define if you were to have 2 levels of local government within the one area.

Mayor OLDFIELD: Particularly with one providing many services in the town and the other using them. The people outside the Gap, for example, were not paying rates but they were using all the facilities of the town. If the Tangentyere Council did not pay rates, that would cause a big problem. It would still have to pay towards the upkeep of the town and the facilities existing within it.

Mr HATTON: But the Tangentyere Council is arguing that it is in fact providing a range of local government-type services such as garbage collection etc. I do not want to get into a debate about the pros and cons but it was arguing that it should constitute a separate form of local government. Your view appears to be that it would be inappropriate to have a council within a council. If the constitution set up structured rights of local government, and with those go responsibilities, it could well be that the Alice Springs Town Council may find, for example, that it would have the responsibility of providing funding to organisations such as Tangentyere which are carrying out local government-type functions.

Mr KENNEDY: It would have an option to do that or ...

Mr HATTON: One would surely not expect the state government to fund those local government services.

Mr KENNEDY: What I am suggesting is that it would have an option to fund them or provide the services direct. It is my turn to be a little ideological but it seems to me that any division such as that is perhaps against the philosophy of a community of interest and against the philosophy of developing a community of interest. If you promote divisions as distinct as that, I think that you

will erect barriers that will be very difficult to overcome. I think that you can overcome the problems that we have at present without that sort of thing.

Mr HATTON: In item 3, under reasons for recognition, it refers to 'guaranteed powers and consequent removal of the threat of challenge under the doctrine of ultra vires'. Ultra vires, of course, means acting beyond power. How would local government be protected against any action taken against it for acting beyond its powers? You would have to give it the powers of a sovereign, national government.

Mr KENNEDY: There is a possibility that you are taking that out of context.

Mr HATTON: I am asking the question because that is how I would interpret it when I read it.

Mr KENNEDY: These sorts of documents are almost Roy Mitchell's hobby and they are my difficulty. I have a feeling that what he is saying here is that, unless we have some form of constitutional recognition, we could be open to challenge under the doctrine of ultra vires. Further, I think he is saying that, unless this recognition is entrenched, because there is the possibility of the constitution being changed easily as compared with perhaps the federal constitution, local government could find itself in a situation of ultra vires as a result of changes to the constitution. I think the argument there is that we believe that it needs to be in the constitution and it needs to be entrenched in the constitution.

Mr HATTON: I would be curious to hear your Town Clerk's expansion and explanation of that particular view. It could be very significant or it could be illogical and I am not sure which. I for one would like to see it clarified. If it means that it will remove the potential to challenge anything a council does, that is important.

Mr KENNEDY: The interpretation that you expounded would not have been the sort of thing that was on my mind.

That leads me to a question I would like to ask if I may. I note in the comments that appear in your discussion paper towards the end of the local government segment that the select committee favours some constitutional provisions.

Mr HATTON: Which page are you referring to?.

Mr KENNEDY: Page 92, section 6. The committee 'favours constitutional provisions for the recognition of local government in the new state and invites public comment ...'. What the committee does not say is whether its members have views one way or the other about entrenchment of the recognition of local government.

Mr HATTON: That is what we were referring to there.

Mr KENNEDY: So you favour an entrenchment?

Mr HATTON: This is dealing only with any matters that would be dealt with by way of the constitution. There are other provisions in respect of entrenchment of any constitutional amendment. It suggest that any amendment to our Northern Territory constitution would have to be done by way of a referendum of the Northern Territory people.

Mr KENNEDY: Good. That is the clarification that I was looking for.

Mr HATTON: I do not know of any member in this committee or any former member of this committee who has ever been of the view that we should give the parliament itself the right to amend constitutions as exists in some of the states.

Mr KENNEDY: That was what I was aiming at. Thank you for that clarification. I have one other point.

Mr HATTON: Besides I do not believe I would get it past the community even if I wanted to put it forward.

Mr KENNEDY: Could I ask another question? I refer you to page 21 of this discussion document. It is a little bit wide of what we have been talking about but I note a statement is made in the second paragraph that the 'select committee supports the exclusion from nomination of a candidate who is already a member of the Commonwealth or another state legislature ...'. Later, it says that 'views differ on the committee as to whether this should extend to the membership of a local government body'. The education that I have been given gives me a pretty one-eyed view of that situation. I am just wondering what the other side of the story is. Why would you want to preclude a member of local government from nominating?

Mr EDE: Well may you ask.

Mr HATTON: This paper was written last year, I believe. Nevertheless, there is an argument in principle that has been advanced. If a person is elected to government, he should serve that term of office and not merely use it as a stepping stone to something else. If you were in a state legislature, it would be equally inappropriate to stand for local government or for the federal government. I know that the mayor has expressed a view on this publicly recently: that the community elected somebody to do a job and it expects that person to be committed to that job and carry it out. That is an argument of principle. The arguments against it have generally been arguments of financial convenience to local government because of the cost and inconvenience of by-elections.

Mr EDE: But also because of the size of the Territory population in relation to the number of its political bodies. A person in the Territory could possibly be an alderman and also a member of parliament and do both those jobs better than a person who was an alderman of the Brisbane City Council and also member of the Queensland parliament.

Mr KENNEDY: You would get a good salary for both over there, Brian.

Mr HATTON: Where a person holds local and state government seats, there is potential for conflict of interest.

Mr KENNEDY: I do not think anybody that I can think of in local government would disagree with the scenario you have painted as a result of an election. The comment in this paper is that the office should terminate automatically with that person's election. That is fair comment. I take the point that you are making as regards responsibility etc. It seems to me, however, that the responsibility needs to be in a person's conscience more than it needs to be in legislation. The other risk that the person runs is that, if he drops out of a position to which he has been elected recently,

that must have some effect on his electoral chances with whatever else he is aiming at. I have a difficulty in accepting that legislation is necessary in regard to this.

Mr HATTON: This document was not designed to express a particular viewpoint but to indicate where there may be conflicting views and draw public comment. It is what it says it is: a discussion document.

Mr KENNEDY: Thanks for answering the question. I was merely curious to learn who could possibly think the other way.

Mr HATTON: I understand that there is a legislative amendment going through at the moment that will enable local government members to stand for the Territory office. They will lose their local government position only if they are elected. There is a similar provision in relation to public servants.

Mr HARRIS: I hold the distinction of being the last person who was an alderman and a MLA at the same time. In 1977.

Mr SETTER: That exists interstate, in New South Wales.

Mr KENNEDY: I think that there would be a difficulty there, as Brian was saying.

Mr HATTON: It is really a matter of resolving that matter of principle. It is open now for the community to debate whether it should be included in the constitution or dealt with through electoral legislation. The whole process is dealt with normally by means of electoral legislation rather than in constitutions.

Mr KENNEDY: That is fair comment.

Mr HATTON: That gives everybody a degree of flexibility to reflect the views of the community is moving. Do you have any further questions?

Mr KENNEDY: No, thanks very much, Mr Chairman.

Mr HATTON: Do other committee members have any questions?

As I mentioned, if the council wishes to expand on any matters, it is certainly welcome to do so. We are seeking a broad cross-section of community views and comments. The more specific you can make particular points, the better that will assist us in our task, which will be a very large and onerous one.

Mayor OLDFIELD: What time limit do we have to provide any further submissions.

Mr HATTON: We aim to report to the parliament in April or May next year.

Mayor OLDFIELD: You would want them in by what date?

Mr HATTON: Obviously, we would like them as soon as possible.

Mayor OLDFIELD: Within 3 months.

Mr HATTON: Each year, we have had 12 months and we have extended it by 12 months. It is not a job that can be dictated purely by time but rather by the necessity of doing the job properly.

Mayor OLDFIELD: Thank you very much for listening to us today.

Mr HATTON: I would like to thank the members of the public who have come along today to listen, the press and also those people who participated in the discussion this morning.

Hearing concluded at 4:05 pm.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

DOCKER RIVER — Tuesday 4 April 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 Neil BELL
(Translating for Unidentified Aboriginals)

NOTE:

This is a verbatim transcript that has been tape-checked. However due to poor

recording or many people speaking at the same time, some of the recordings were inaudible and unable to be transcribed.

Mr HATTON: My name is Steve Hatton. I am the chairman of this committee of the Legislative Assembly. It is called the Select Committee on Constitutional Development. As you know, we have come here to talk to you about starting work on drafting a constitution for the Northern Territory.

The first thing I have to say is very important. We are not asking you whether you think statehood is a good thing or a bad thing. That is another question for the future. Before you can even think about that question, we have to write a constitution. It is like when you wanted to have the Land Rights Act. The first thing they had to do was to sit down and write the act, before you talked about whether you wanted it or not. It was the same when you were thinking about a council for your community. The first thing was to write up a constitution for the council. If you have that and it is what you want, you then say whether you want to go ahead and make the council or not make the council. It is the same thing with statehood. The first thing you do is sit down and write a constitution that sets out your rights and what protection and rules you want for the Northern Territory. When you have done that, you can talk about whether you want it now, next year or in 5 or 10 years time.

The other thing that I must say is that the reason that we are working on a constitution now is because it takes a long time. It does not happen very quickly. There are lot of people in the Northern Territory, a lot of people with different ideas. It is our job to get all the people talking to each other so that we can gradually come up with rules and laws that everyone agrees are good, and which will become the constitution. This is going to take a long time. We are coming here today to ask you to start thinking about that and to start thinking about what sort of laws we should be making. What sort of rules, what sort of rights should we be writing in? The purpose of this committee is to get communities to start thinking about these questions. Later on, maybe towards the end of this year, we will come back so that you can tell us what you think. Maybe we will come down 2 or 3 times in the process of working out how we go about making this constitution.

Mr BELL: Nyanga pula Constitutional Development Committeengka nyinapai ka ngayulu palu pulala wanu raunurinyi. Palupula Country Partynya ngura ka ngayulu Labor Partynya ngura. Nganana sometime pika-pikaringanyi law kutjupa kujupa-nguru idea kutjupa kutjupanguru.

Kuwari nganana tjungunguwanpa wakaringanyi idea mantintijaku Northern Territoryku idea panya nyura ninti panya Darwintakutu ankupai ngayulunguwanpa wangkantjaku kutjupa kutjupaku law tjunkuntjaku. Well, law kutju katunguwanpa ngaranyi constitution state tjutangka South Australia, Western Australiala, Victoriala, New South Walesala, Australia winkingka palya. There's an Australian Constitution and there's a South Australian constiution, law panya nganana putu changeamilani. Anangu tjutanku kutju changeamilapai politician wiyanguku. Alright? Because that's a strong law. Now, kuwari nganana ngura kutjupa kutjupakutu ankula idea mantjini utinitjaku panya constitution anangungku kulintjaku, tjinguru nyuru kulinu panya Statehood kutjupa tjutanku kulini idea wiru kutjupa tjutalu kulini idea kuranguwanpa. Well, nganana wiya mukuringanyi nyura kuwari ngurkantanytjaku wiya just ara kulintjaku. All right nganana kulini constitution tjinguru tjunkuntjaku three years, five years, ten years. Palya?

These two people are on the Constitutional Development Committee and I

am going around with them. They are from the Country party and I am from the Labor party. Sometimes we disagree on different matters and ideas. Today we are working together to get ideas for the Northern Territory. Most of you people know that I go to Darwin to talk about different things and to make laws. There is one law that is a big law and that is the constitution. In all the other states in South Australia, Western Australia, Victoria and New South Wales they all have a law which is the constitution. There is also an Australian Constitution. This law, the constitution, is a very big law and it is not easy to change. The constitution can only be changed by the people, not by politicians, because it is a strong law. Today we are going around to many different communities to get ideas from people and to also tell people about the constitution. Some people think that the constitution is a good idea but others think it's a bad idea. Well today we don't want people to tell us what they think but to just listen to what we have to say. Alright? We are hoping to have a constitution in three, five or ten years time. OK?

Mr HATTON: I said that we are not asking you whether you think statehood will come or not, or whether you think it is a good thing now or not. I ask you, however, to recognise that it will come about, whether in 5 years, 10 years or even 20 years. One day the Northern Territory will be a state and it is very important for us, for our children and for our grandchildren, that we give time and thought to making a constitution that will make this a good place for our children. That is what we are working on.

Mr BELL: Ngulu might be five years, ten years, twenty years Northern Territory ngaraku state nguwanpa South Australianguwanpa, Western Australianguwanpa. Kuwari nganana Self Governmentangka nganana nyanganyi State nguwanpa nguwanpa lipula but nganana mukuringanyi ngula might be uwankara palyanmankula ka nganana tjinguru state ngaratjunku. Kulini? Uwa, nganana wituntja wiya nganana mukuringanyi just utintjaku, yaaltji yaalitji constitution law palunya ngaratjunktjaku, yaaltji yaalitji changeamilani Self Governmentnguru Statehoodtakutu. Nganana mukuringanyi nyura idea kulira pipa palunya nyakula idea mantjira watjantjaku uwa.

In the future, maybe in five years, ten years or twenty years time, the Northern Territory will be a state just like South Australia and Western Australia. Now we have Self Government which is nearly like a state, but we want to be a state later on. When people say yes then we will become a state. Do you understand? We are not pushing you all, we are only giving you all the information about the constitution, and how we will go about getting the constitution. We will then change from Self Government to Statehood. We would like you all to think about this and read this book we have. We then want you to give us your ideas about the constitution.

Mr HATTON: This is how we are working towards writing this law. The first thing our committee did was to look at constitutions all over the world. We came up with this book which has arguments this way and that way on different parts that maybe should go into the constitution.

Mr BELL: Pipa nyangatja palyanu idea kutjupajara tjinguru some palyanmankuntjaku tjinguru kuramankuntjaku. Ka nyangatja idea kutjupa, ka nyangatja lipulanguwanpa nyangatja easy nguwanpa readamilantjaku, tjinguru pipangka tjunkuntjaku idea kutjupa constiutionatjara. Alright? Tjinguru nganana tjunkuku constitutionangka. Nyaa panya? Idea panya, ananguku law witu kanyiltjaku.

This book has many ideas in it. Some people will say they are good ideas and other people will say they are not good ideas. Some of the things in the book are easy to read. Maybe people want to put their own ideas in the book. Alright? Maybe we will make a constitution so that we can put Aboriginal people's ideas in it and Aboriginal people's law in it.

Mr BELL: We can put things into the constitution so that the things that are important to Aboriginal people are protected. That is some of the ideas that are here in these 2 books. There are also ideas for laws for whitefellers. It is for both.

Mr BELL: Ngaranyi panya law kutjupa, kutjupa walypalaku law, anangu law Godaku law, well nganana kuwari mukuringanyi walypalaku law ngaratjunktjaku ananguku law ruwantjakutawara, panya Land Rights Actnguwanpa, Sacred Sites Actnguwanpa. Iriti, tjawalpai tjutangu ngura tjukuritja ruwani well nganana law tjunu ruwantjakutawara uwa putu ruwani well nganana kulini law constitution law pulka panya katutja ngaratjunktjaku panya uparinkuntjakutawara.

There are many, many different laws in the world. There are European's laws, God's laws and there are Aboriginal people's laws. Today we want to make a European law that includes the Aboriginal law so that it is not destroyed. This law will be like the Land Rights Act and the Sacred Sites Act. A long time ago the miners destroyed a lot of the Sacred areas. We want to make this constitution in order to save Aboriginal laws from being destroyed.

Mr HATTON: We are coming out here now to ask you to start looking at these things and talking amongst your community so that later on, maybe later this year, you can tell us what you think should be in the constitution or what you think should not be in it.

Mr BELL: Kuwari nganana nintini nyuranya pipa nyangatja piruku, might be tjinguru Octoberngka tjinguru Novemberngka ngalya pitjaku malaku idea nyurampa kulintjaku. Nyura pipa nyangatja nyakula Councilangka, ngurangka kulira wangkara idea mantjilku nganananya watjantjaku tjinguru Octoberngka tjinguru Novemberngka.

We might come and show you the book maybe in October or November. We will also be coming back to listen to your ideas. You will get your ideas by

having council meetings and by talking to each other at home. You can give us your ideas in maybe October and November when we come to talk to you again to listen to your ideas.

Mr HATTON: After we have talked to everyone around the Northern Territory our committee will then make a draft constitution.

Mr BELL: Octoberngka kulira ngura kutjupa kutjupangka kulira, kulira walkatjunkuku constitution arkantja, draft constitution watalpi wiya ngaratjunkuntja wiya constitution just arkantja. Kutjupa tjutangku nyakula rawanku kulintjaku, kulira, wangkantjaku.

In October when all people have thought about the constitution and said yes to it then we will make a draft constitution. It won't be the real constitution just a first draft. Many people have got to think about this for a long time before they say what they want to be put into the constitution.

Mr HATTON: We are going to do this first part in 3 steps. The next thing we want to do is to get together a group of people, representatives from all over the Territory, including Aboriginal people and white people, who will take part in a meeting to talk about what we suggest and say whether they like it or want to change it. The people of that committee will discuss it to work out what the people themselves think. We need you to say who you think should go on that committee.

Mr EDE: When do you think that will happen - 1 year or 2 years?

Mr HATTON: If we get our work done by April, it would happen after we present it to the Assembly, probably late next year.

Mr BELL: Nganana tjunkuku constitutional convention.

We will make a constitution convention.

Mr EDE: What will the job of the convention be?

Mr HATTON: It will take our draft and all the submissions that have been made and it will prepare the proposed constitution to go to the referendum.

Mr BELL: Piruku constitution panya arkantja nganana wangkangi constitution panya arkantja walkatjunkula ka mitingi pulkangka anangu tjutangku, walkatjunkula ka mitingi pulkangka anangu tjutangku, walypala tjutangku mitingi kutjungka idea palunya tjananya constitution arkantjikitjanga uwankarangku ngurintjaku.

This is about the constitution again. When the draft constitution is completed then all of the Aboriginal and European people have got to get together and have their say about the constitution in a big meeting.

Mr BELL: They will make one draft constitution out of that constitutional convention for everybody to vote on.

Mr HATTON: That is why it is very important that we get the right people to go to that meeting, so that they will be very representative and can speak on behalf of the people, all the people in the Territory. We are asking you to think about that too and tell us the sort of people you think should go there.

Mr BELL: Uwa consitution panya arkantja nyura watjantjaku nganananya ngula. Nganalu constitution panya arkantjanya nyakula kulira ngurkantankuku? Anangu tjutangku anangu nganalu? Uwankarangku wiya tjinguru kutjungku, tjinguru kutjutjarangku, tjinguru mankurtu, tjutangku alatji. You got to choose and Walypala nganalu?

OK, later on you will talk to us about the draft constitution. What Aboriginal people will look at the draft constitution and decide? It won't be just one person, two people or even three people. It will be many people maybe? You people have got to choose, also European people as well.

They have to be the right people because when they finish their job, that constitution goes out to all the people and they say yes or no. They vote in a referendum.

Mr BELL: Constitution panya malatja, palyantja watalpi iyalku uwankarangku nyakuntjaku tjinguru newspaperngka alatji and uwankarangku tjinguru palyanmanku tjinguru wiyamanku, constitution panya malatja kulini.

When the constitution is made then it will be shown to people, maybe through the newspaper, then people can decide to have the constitution or not to have it.

UNIDENTIFIED PERSON: Uwa, tjinguru malatja wiyammananyi tjinguru alatjinanyi putu arkaranguwanpa.

Maybe people will say no to the draft constitution.

Mr BELL: He says that maybe some people would say that it is good and others would say that it is not.

Mr HATTON: If people say no to the constitution, it goes back and the convention starts working again until it gets one that everyone agrees with.

Mr BELL: Tjinguru uwankarangku wiyamankuku constitution malatja panya well palya piruku raunuritjaku kulira wangkantjaku yaaltji yaaltji law panya see law kurwari law katutja ngaranyi Self Government Act. State kutjupa tjuta Self Government wiya tjana constitutionatjara ka

nganana mukuringanyi Northern Territoryka ngaratjunktjaku Constitution, State kutjupa kutjupa tjutanguwanpa.

If people disagree with the constitution then we will start talking to people all over again. See today we have a Self Government Act, but in the other states they don't have Self Government they have a higher law which is a constitution. We would like to make a constitution for the Northern Territory just like the other states.

Mr BELL: I was just saying that, at present, the major law which sets up government in the Northern Territory is the Self-Government Act and that we want to be like the other states, with the same sorts of constitutions agreed to by all of the people.

Mr BELL: Nganana mukuringanyi anangu tjuta walypala tjuta tjungu nyinantjaku. Nganana wiya mukuringanyi walypala tjutangku kutju ngurkantananyi law palunya, nganana mukuringanyi anangu tjutangku kulu.

We would like European and Aboriginal people to live together. We don't want just the Europeans to put their views into the constitution. We want Aboriginal people's views as well.

Mr BELL: We are in a little bit of trouble because Harry was saying that, clearly, Aboriginal people do not know much about whitefeller law. I said that this is a whitefeller law for making laws. It sets the ground rules.

Mr HARRY BIGFOOT: Nyaalta ngurkantankutjaku? (What are we going to choose?)

Mr BELL: Constitution panya law panya katutja. (The big law, the constitution.

Mr HARRY BIGFOOT: Nganana ngurpa nyuntumpa lawku. Uwa walypalangu palya ngurkantananyi nganana ngurpa don't know. Anangu ngurpa nyinanyangka.

We don't know your laws. Yes, only the Europeans should put their views into the constitution because we ABoriginal people don't know your laws.

Mr BELL: Nyura ninti panya law mutuka tjutaku, nyura ninti panya law panya dry areaku.

You all know about all the laws for motor cars. You all know about the Dry Area law.

PEOPLE: Uwa. (Yes)

Mr BELL: Uwa. Walypalaku law tjana. (Yes. Well they are European's laws.)

SECOND SPEAKER: Uwa, nganana tjunguringanyi anangu walypala wana kutjuku tjukurpa kutjuku law kutjuku nganana tjunguringanyi.

Yes, we are going to get together European and Aboriginal people for the one constitution.

Mr HARRY BIGFOOT: Hey, wantima kana ngayuluwarara wangkara pinitjiri. Palyalta wati wangka nyangatja ngayulu pulkanyatu kulira wanani.

Hey, just wait a minute until I finish what I am saying first. Then you can say what you want to say. I do understand what is being said here.

SECOND SPEAKER: Purkarangku panya kutjupangku watjara wiyaringanyi.

Let's just say what we have to say separately without getting angry about it.

Mr HARRY BIGFOOT: Purkutjara wati wangkama nyuntu kana ngunti mutu mutu wangkara wiyaringama.

You, the one who is bereaved, say something and then I will say something and then finish.

SECOND SPEAKER: Katutjaku law nyangatja ka nyura kurani titutjarangku, nganampa katutjaku law nyangatja ngaratjunkturja katutjangku, katutjangku ngaratjunkturja law. Law nganampa. Wati tjutaku nganampa law ngaratjunkturja katutjangku. Ngayulu iriti ngayulu kuraringkula anu pikatjara anu.

This is God's law and you are spoiling it the way you have done before, This law was made for all men. Long time ago I got sick and went away to Adelaide.

THIRD SPEAKER: Kurani ngangkar. (Oh, no, he's messing up the meeting.)

SECOND SPEAKER: Ngayunya wakanu ngura nyara Atilaitala. Wati punkupai miilarara punkupai wati kutjupa.

I was made better in Adelaide when I was ill. A man can, if offended, get angry and hit out at people.

Mr BELL: Punkupayi nganalu? **(Who does the hitting?)**

SECOND SPEAKER: Wati tjutangku ngura panya nyangangka miilarni uti nganana kalypa wirungku law nyanga palunya kanyima.

Men from this community who get offended. We can't get together and talk about this constitution peacefully.

Mr BELL: Uwa. **(Yes)**

SECOND SPEAKER: Nyuntula ngayulu wangkanyi. (I'm only saying this to you.)

Mr HATTON: When you vote, you elect Neil Bell or me or Rick into parliament and we make laws. If you do not have not a constitution, we can just keep making whatever laws we want to make or take the laws away. To stop us being able to do that, the people come and say: 'You can do this. You cannot do that'. The people draw up the rules for us, what we can do and what we cannot do. You tell us what rights you have that we cannot touch. That is what the constitution does.

Mr BELL: Uwa. Tjilpinkuni watjanu, wiya nganana ngurpa walypalaku lawku. Ka ngayulu watjanu wiya nyura ninti panya law kutjupa kutjupaku dry areaku, motor vehicle registerimilantjaku, panya courtangka tjarpantjaku uwa kaankangu mantjintjakutawara law kutjupa kutjupa.

Yes. Harry told me that you people do not know about European laws, but I told you all about that. You all know about the many European laws. Different laws like the Dry Area law, the motor vehicle registration law, court law, stealing law and you also know about many other laws too.

Mr NICHOLSON: I think it would be a pity if they went away with the idea that we were just drawing up another whitefeller law.

Mr HATTON: That is right. I will build on that if I can. Can you just explain what I said then, Neil?

Mr BELL: Tjinguru nganana wangkantjaku law panya Constitution law panya katutja constitution. Alright? Politicians tjutangku law palyani mutukai registerimilantjaku kutjupa kutjupa. Politicians tjutangku law palunya constitution tjunkuntja wiya Angangungku, walypalangu, jana palyani nyura nganananya watjani yaaltji law palyantjaku. Alright?

Maybe we'll talk about the constitution, alright? Politicians make the laws for things like motor vehicles but it's the people, European and Aboriginal people,

who make a constitution, not the politicians. The people tell the politicians what to put into the constitution.

Mr BELL: It is very hard to explain.

Mr HATTON: That does not explain it?

Mr BELL: No.

Mr NICHOLSON: What about the community government model? Do they understand that.

Mr HATTON: There is no community government here.

Mr NICHOLSON: They must have a council though.

Mr BELL: The council, yes.

Mr NICHOLSON: Well, that must have a constitution.

Mr BELL: That is right. The constitution for the council.

Mr BELL: Nyura law tjunu Councilaku for the Association for the Council and nyura idea kutjupa kutjupa kulira tjuna. Law panya Councilaku well nyangatjanguwanpa lipulanguwanpa Northern Territoryku Legislative Assemblyku. Palya?

A constitution is like the laws you have for your council. Your council law and the constitution which is for the Northern Territory Legislative Assembly is similar. OK?

WOMAN SPEAKER: Ideaya kunyu kutjupangu kulira tjakultjura wiya kanmanaringuya yuuntju palya pitjala kuitjinamilani nyuranya.

Come on you people think of some ideas and tell him. Don't just sit there quietly. Ask him questions also.

MALE SPEAKER: Idea yaaltji nyuntu wangkanyi? Dry area, other area alatji wangkanyi?

What sort of laws are you talking about? Are you just talking about the Dry Area law?

Mr HATTON: And they say what the council can or cannot do.

Mr BELL: They are important laws but they change. We have different ideas. Sometimes parts of that law are good and sometimes they have to be changed. We want to make sure, for example, that everybody over the age of 18 votes in the Northern Territory. Those are the sorts of things that you would put in a constitution.

MALE SPEAKER: Vote wiyangka malakutu piruku. Waakaringanyi mulapa?

If the people vote against the constitution then we have to begin all this work again. True.

Mr BELL: Yes, that is right. If people do not vote in favour of it, we will keep trying until we get it right. If there are things that people think are wrong, we will keep working at them so that, eventually, we will get everybody together.

Mr HATTON: The constitution must be a law that is made by the people, not by the parliament. It is a law from the people, for the people and it can only be changed by the people.

FIRST SPEAKER: Anangungku panya tjukurpa iritija Wangkara, ngalya wangkama anangukutu. Palunyanuwanpa nyangatja wankanyi?

You know a long time ago Aboriginal people used to sit down and talk to each other like we are doing today.

Mr BELL: Ananguku law? (**Aboriginal law?**)

FIRST SPEAKER: Anangungku panya irititja wangkapai tjukurpa, ka Yangupalanguku kulipai munu ma kulipai palunya way nyangatja.

A long time ago, the elders taught the young people the laws of our society.

Mr BELL: They are saying that, a long time ago, in the olden times, the older people knew the law and the young people who came afterwards learnt about that law.

That is right. The constitution is a little bit like that in that it is one law that stays very much the same.

MALE SPEAKER: Walypala tjutaku law panya tjanampa changeamilani. Nganampa still ma ngaranyi.

European people are known for changing their laws when it suite them. But our laws are still the same as they were before.

Mr HATTON: And this one cannot be changed like that. They can understand that idea.

Mr BELL: And this is one.

Mr HATTON: They can understand that idea.

Mr BELL: Law panya constitution ngaranya tirtunguwanpa putunguwanpa changeaipai.

The constitution is a law that cannot be changed.

WOMAN SPEAKER: Nganana wali palangka nyinanyi toileta wiya bathrooma wiya.

We are living in a house that has no bathroom or toilet facilities.

MALE SPEAKER: Tukurpa ngulaku wanti, wiya kulinila kutju.

Leave that business about the houses alone, we are just listening at this meeting.

WOMAN SPEAKER: Wiya, kulintja wiya nyangatja naganampa uwankaraku ngaranya panya tjakultjunktjaku.

No, we are not here just to listen, we have things to report as well.

Mr BELL: Uwa, wangkama. Uwa palya.

Yes, that's OK. Tell us what you want to tell us.

MALE SPEAKER: Watjala ka tjakultjura palula.

Tell him then he can tell the others.

WOMAN SPEAKER: Tjakultjura kunyu walangku.

Tell him quickly.

WOMAN SPEAKER: Tjakultjunktja wiya panya alangkala wali palangka palangka nyinanyi titutjara alatjitu, alanytjiri panya ngaranya palyantja wiya.

We are living in a house that has no ceiling. It has not been finished yet.

Mr BELL: Wali palyantja wiya? (They haven't fixed a house)

WOMAN SPEAKER: Wali uwa window kulukulu palyantja wiya, tili wiyala nyinanyi munu katutjanya palyantja wiya.

Yes, we haven't got windows, lights or ceilings in our house.

Mr BELL: Munu irona wiya roof wiya. **(Also no roof?)**

Mr BELL: These people are fairly cranky because the houses have no power connected and their roofs have not been finished. These are more immediate concerns than the constitution.

Mr HATTON: I can understand that.

Mr SETTER: Who is responsible for that, Neil?

Mr HATTON: The housing association.

Mr BELL: Uwa, tjinguru nyuntu, ngali, nganana kuwaripa constitution panya wangkara, kala wankaku waliku palya, Uwa?

Ok, we will talk about the housing problems later after we have finished with the constitution. Alright?

Mr HARRY BIGFOOT: Uwa, nganananyalta kulini wati maru tjuta nguraku wangkantjaku.

Yes, you can listen to us while we talk about our home.

Mr BELL: Uwa, palya? **(Alright, that will be fine)**

Mr BELL: We will talk about some other things afterwards. They want to talk about outstations.

Mr HATTON: That is fine.

Mr BELL: We will just finish with this constitution business.

Mr HATTON: We have talked about the constitution being a law that cannot get changed. There has been a lot of trouble in the past, and sometimes in the present, between the whitefellers and the Aboriginal people. We should try to work to make one law, one constitution for Aboriginal and whitefellers, so that we can live together properly with each having proper rights. We must work together on that. It can only happen through the constitution. It is the one law about how we can all live together with respect for each other.

Mr BELL: Uwa, alatji wangkangu paluru. Paluru nganana mukuringanyi constitutionaku pukulpa nyinatjaku anangu tjuta, walypala tjuta kulu. Iriti walypala tjutangu kulintja wiya ananguku law tjana, watarku ankupai, ngura miilmiilpa ruwanunguwanpa. Ngura tjukuritja ruwanu. Ka nganana mukuringanya tjukarurungku ngapartji ngaparti nyinantjku law panya constitutionangka, kanyintajku ananguku law. Ruwantjakutawara, katantantjakutwara. Palya?

Nyura idea palunya tjananya kulintjaku. Walypala tjutangu law kutjupa kutjupa ngaratjunu ananguku law nyakula. Nganana Land Rights Act ngaratjunu, nganana Sacred Sites Protection Act ngaratjunu. Ananguku law kulira, mulapa.

Yes, what he said is that we want Aboriginal and European people to live happily together with the constitution. A long time ago European people went onto sacred sites and destroyed them without thinking and knowing what they were. So what we want is to help each other out by putting Aboriginal people's law into the constitution because it might be destroyed. OK? You must understand this

European people have made laws such as the Land Rights Act and the Sacred Sites Act after looking at Aboriginal law. This is true.

PEOPLE: Uwa (Yes)

Mr BELL: Well nganana mukuringanyi constitutionangka ngaratjunktjaku law pulka changeamilantja wiya, alatji kanyintjaku ananguku law. Uwa. Palya?

We want to make the constitution so that we can keep Aboriginal law alive in the constitution. Alright?

PEOPLE: Uwa, palya. (Yes, that's good.)

Mr HATTON: That is why we must do this job. It is really important, for you and for all of us, that you think about these things. If you are not sure about something, ask for more information so that you can understand as much as possible. Then you can think about it, talk, and have your say. You can say what you think should happen. When you do this, think about yourselves and your families. Think about the other people too, so we can get everybody thinking about each other for one place.

Mr BELL: Nganana mukuringanyi kutjupa kutjupa tjutangu wiya wanyu. Nganana mukuringanyi uwankarangku kutjupa tjuta nyakula law palunya constitution tjunktjaku. Uwankara pukulpa nyinantjaku. Nganana mukuringanyi nyura nganana kutjupa tjuta nyakula. Munta. Tjana mukuringanyi kutjupa kutjupa tjinguru walypalangku ananguku idea kulintjaku, and ngapartji, ngapartji. Uwa?

We would like many different people to - no that's not it. We would like everyone to make the constitution, and for everyone to be happy with the constitution. We would like you with us to look at all the different ideas for the constitution - no that's not it. We would like Europeans to look at Aboriginal law and you should look at European people's law. Alright?

Mr HATTON: We will leave some stuff behind so that you can start to think about these things. Please, if anybody has any questions, ask them now.

Mr BELL: Tjinguru, uwa palya nganana wiyaringu pipa nyanganpa wantiku. Nyura nyakula, kulintjaku, kuwaripa wangkantjaku. Tjinguru, nyura ngalinya kulira mukuringanyi kuwari ara wangkantjaku mulapa? Ara wangkantjaku?

OK, we will stop now so that you people can tell us your ideas. Maybe, you like what you have heard from us and you want to say something now. OK?

MALE SPEAKER: Uwa, tjana nyanga outstation ngurara tjutangku and wati Docker Rivernya ngurarangkunti ara wangkaku. Palyaya kunyu tjakultjunama wali panya nyura watjara wantingu palunya tjananya. Palulaya tjakultjura.

Yes, the men from the outstations and also from Docker River want to talk about their outstations. It is good that you people talk to these people about your outstations now.

Mr BELL: Uwa, palya tjinguru ara wiya, tjinguru ngula.

Alright, now we might finish this meeting because no one wants to talk about the constitution anymore. Maybe later.

Mr BELL: People want to talk about that housing business.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

KINTORE — Tuesday 4 April 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 Neil BELL (Translating)
Mr Smithy ZIMMERMAN
Mr David SCRIMGOUR
Ms Vicki GORDON
Mr Nigel CARRICK
Mr Riley MAJOR
Mr Graham HENDERSON
Mr CONWAY

NOTE:

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

Mr BELL: Uwa palya, nyuntu kulinu, nganana warkarinyi tjungu, Country Party mankurpa, Labor Party mankurpa. Paluru nganana tjungu warkarinyi, law nyangaku. Tjinguru nyura kutjup ara nyakupai newspaper-angka, paluru ngali pikapikaringanyi. Country Party-nya ngurara paluru, Labor Party-nya ngurara ngayulu. Well, sometimes pikapikaringanyi nganana uwa. But kuwari law ngaranyi, Canberra-la tjunkuntja, Northern Territory kapmantaku, Self Government Act. Ka nganana kuwari kulini Statehood, palumpa arangka, Self Kapmantaku arangka tjunkuntjaku law kutjupa, yaltjyaltji tjantjiringkuku. Uwa nganana warka panya Constitutional Development Committee tjanampa warka. Uwa.

Yes, that's right, do you understand? We're working together, three Country Party Members and three Labor Party Members. We're working together for this law. Maybe, on the other hand, you have seen in the newspapers he and I have had disagreements. He is from the Country party and I am from the Labor party. Yes, sometimes we do have disagreements, but today the law stands in Canberra, put there by the Northern Territory Government; Self Government Act. But today we are thinking of having Statehood instead of Self Government Act, another law. How will it change then? Yes, our work is for the Constitutional Development Committee.

Mr HATTON: Thank you for meeting with us this morning. My name is Steve Hatton and I am the chairman of this committee. You know Neil Bell, your local member for the seat of MacDonnell. Mr Rick Setter, the member for Jingili, is also here. We are from a committee of the Northern Territory Legislative Assembly. It is a committee of members of the Assembly, 6 people. There are 3 people from the CLP and 3 people from Labor. It is unique. It is different because it is the only committee of the Legislative Assembly with the same number of government and opposition members in one committee. That is because we are trying to work together as on a bipartisan basis towards writing a constitution for the Territory.

Mr BELL:Uwa, nyangatja ngarinyi tape recorder and microphone ngaranyi kutju, yaltjitu, kutjara munta uwa nyanga pula. Kutjara and kutjara kutjupa nyangatja, nyaaku nganana tape - milani wangka nyangatja, panya watakurintjakutawara. Nganana ngula kulintjaku piyuku, watakurintjakutawara and tjinguru ngunti kurantjakutawara. Tjinguru paluru ngainya paiyilku, kuwaripa tjuku rutungku wangkanja wiya, well fight-ingka paluru paluru check-amilalku.

Yes, here is a tape recorder and a few microphones. Why are we recording these discussions? Because we will be able to listen to what was said at that time in case we weren't sure about what was being said. Maybe what was said could be wrongly interpreted. Then I will be accused of telling lies. In case of arguments this can now be checked.

Mr HATTON: You notice these microphones around the place. This lady has a tape recorder and she is recording what we say. She is with the Legislative Assembly and the tape recordings are for what we call a Hansard record of everything that is being said so that we do not

forget what people are telling us or the questions people are asking us. This meeting and the meetings in all the towns around the Northern Territory will be recorded and will form part of the permanent public record of the work of our committee.

Mr BELL: Wati nyarangku photo-milantjaku mukuringanyi, alatji palya, photo-milantjaku nganananya, nyarangku palya, wiya wiya, palya uwa palya. Ngula tjinguru ngula mulapa, nganana state ngaratjunktjaku, Northern Territory-ingka, Self Kapmantaku arangka. State law ngula tjunktjaku, might be ten years might be twenty years, ngula mulapa.

See that man over there? He wants to take photos of us. Is it alright for him to take photos? No? It's good? Then much later on we can make the Northern Territory a State, in place of Self-Government. Then we'll have a State law. Might be in ten years or maybe in twenty years time.

Mr BELL: This is a paraphrase, Steve. I am saying that the tapes are there so that we can make sure we don't forget and also to make sure that we do not try to tell any lies. The recordings can be used to check up later.

Mr HATTON: That is true.

Now, I would like to talk about our committee. First, you must remember that we are not asking you whether you think the Northern Territory should become a state now or not become a state now. That is not the question. We ask you, however, to recognise and understand that, one day, whether that be in 1 year, 5 years, 10 years or 20 years, the Northern Territory will become a state.

Mr BELL: Uwa, tjinguru nyura kulinu, wangka panya constitution, constitution panya ngaranya.

Maybe you've heard about the constitution?

Mr HATTON: When you formed the council for this community, you had to get a constitution written to say how the council was going to work, how it would be organised, who could be elected, who could say this and who could say that. It is the same throughout Australia. Before they could form the one nation of Australia, they had to write a constitution which set the rules. It is like the people's law. In a constitution, the people tell the parliament what it can and cannot do. It sets the foundations and the framework and it is very much the people's law.

The Northern Territory does not have a constitution because we are a territory. What we must talk about now is what sort of a place we want the Northern Territory to be like in the future for our children and for our children's children. We need to start thinking now about what rules and laws we want to make and how we want this Northern Territory to go in the future. That is something which all the people together have to think about and talk about amongst themselves. We want you to tell us because it is up to you to make those laws. The people make those laws and you give those laws to us and you tell us what we can do, what we cannot do, what rights you have and how you protect those rights. That is what the constitution does.

Mr BELL: Australia-la, law-wanpa. Law panya Parliament ngaratjunktjaku uwa katutja nguwanpa.

The constitution is a special kind of law in Australia. The constitution law which is in Parliament is a higher kind of law.

Mr BELL: It is the highest law. It decides how parliaments work.

Mr HATTON: Yes, it is the permanent law.

Mr BELL: No, it is not really permanent because you can ...

Mr HATTON: It is pretty hard to change. Only the people can change it.

Mr BELL: Law panya constitution, putu change-milani nguwanpa. It's very hard, it's very hard to change the constitution. Nganana kulini constitution ngaratjunktjaku Northern Territory-ingka. We're thinking about sometime in the future, developing a constitution that's like a law for laws and laws that run parliament and courts and so on, for the Northern Territory.

This special king of constitution law is very hard to change. It is very hard to change the constitution. We're thinking about making a constitution for the Northern Territory, developing a constitution that's like a law for laws. A law that runs the parliament, the courts and so on, for the Northern Territory.

Mr HATTON: And what sort of rights they want. People's rights.

Mr BELL: I am not sure how to say that.

Mr HATTON: Let me just give a few ideas. The people might say: 'We want to make sure that all Aboriginal land cannot be taken away'. If you wanted to say that and if it was written into a constitution, the parliament could not change it. Only the people could change it. It could be changed by a vote of all the people. It is a stronger law.

Mr BELL: Tjinguru nganana tjunkuku Aboriginal Land Rights Acts constitution-ingka. Parliament-aku law wiya, constitution-ingka. Putu change-aripai nguwanpa, palula tjana.

Maybe, we'll put the Aboriginal Land Rights Act into the constitution. There are no laws now in Parliament for the constitution. When they make the constitution you can't change it.

Mr HATTON: If you do not have a constitution, politicians like us can make whatever laws we want to make.

Mr BELL: Constitution wiyangka, politician tjutanku, law kutjupa kutjupa tjunkuku. Tjinguru nyura constitution witu tjunkula, politician tjutanku, paluru ngali nguwanpa putu change-aripai.

Without a constitution the politicians would be making all different kinds of law. If you make the constitution strong the politicians can't change it.

Mr HATTON: A constitution is what says we cannot do this or that in terms of making new laws. It protects your rights. It says you want things to happen. In a constitution, people give the rules to the politicians - what they can and cannot do.

Mr BELL: Constitution-angku nganananya unganyi, law nguwanpa politician tjutaku. Politician tjutanku kulintjaku, constitution palunya. Law kutjupa change-aripai, but constitution putunguwanpa change-aripai.

The constitution gives us a law for the politicians. The politicians must listen to that constitution. The politicians can change other laws but they cannot change the constitution.

Mr HATTON: Do you understand what we are saying? I do not want to repeat it 10 times if you know what I am talking about.

Mr BELL: Uwa palya nyura kulini? Palya kulini?

Do you understand?

PEOPLE: Palya, munta palya kulini.

Yes, we can understand.

Mr HATTON: This book talks about the sort of things you can write into a constitution.

Mr BELL: Nyaatjara pipa nyangatja, idea kutjupa kutjupa constitution-aku idea kutju, idea kutju, constitution-aku nyura kulintjaku.

What is the book about? It's about the different ideas for the constitution. Only for the constitution. You understand?

Mr BELL: I am saying that this book contains the different ideas that you have to think about for a constitution.

Mr HATTON: It is only a short book but it contains some of the ideas from this big book. We will leave some of them here for people. We did a lot of research. We put down all the

arguments and different points of view in the big book and then made the simpler summary book too so that people could use it to start thinking about the issues. When they get the general idea and want to know more about particular issues, they can come to the big book which contains more information and arguments.

Mr BELL: Nyangatja wangka pulka, wangka uwankaratjara ka nyangatja easy-nguwanpa. Lipula, lipula panya nyangatja easy-nguwanpa, easy kulintjaku nguwanpa.

All of this discussion is very important. In language it is a little easier to understand.

Mr HATTON: It took nearly 3 years of study to make the big book, looking at ideas from all over the world and considering different arguments. The book contains a lot of things we do not agree with and some things you will not agree with. We have to look at everything and you can say yes to some things and no to others, or make suggestions about something else which you think should go into the constitution.

Mr BELL: Tjana warkaringi pipa nyangangka year mankurpa three years, tjana warkaringi pip nyangaku. Nganana kutju kutju nguwanpa, idea palunga tjananya kulira ngurkantankuntjaku. Tjinguru kutjupa kutjupaku wiyankuntjaku, tjingura kutjupa kutjupaku uwanmankuntjaku.

They worked on this book for three years. So now we can listen to the ideas one by one and understand. Then we will know whether to answer yes or no.

Mr HATTON: As I said, the process of involving the people in making a constitution for the Northern Territory starts with our committee. We are going all over the Northern Territory talking to communities like yours. We are visiting over 59 places in 10 weeks. We are not asking people to tell us what they want now. We are saying: please look at this, it is important. It is important for you to have your say, to think, talk amongst yourselves, get your ideas and have your say. Tell us what you think should go into the constitution. Be part of this because this is the most powerful law. It is important because it is not just for you or me but for our children and our grandchildren. That is why we have to think very hard and work as a whole community to try and get a good law for everyone.

Mr BELL: Uwa tjana ngura kutjupa tjutakutu anu fifty-nine communities alinytjara Top End communities last week.

In the last week they have been to many communities in the Top End, about fifty-nine communities.

Mr HATTON: Well we have been in the VRD and Katherine district and around Darwin.

Mr BELL: Tjana Darwin-ta itingka Hooker Creekala alinytjara tjana kutjupa kutjupa nyarangka alintjara kaya ngura tjutakutu ankula kulilku. Tjinguru utilku idea palunya tjananya, anangu tjutangu kulintjaku kutju. Ngurrkantunkuntja wiya, kulintjaku kujju.

The communities that they have been to are near Darwin and Hooker Creek, in the north. They went to these communities to hear the people's ideas, not to get them to choose anything yet, just to listen.

Mr HATTON: We want you to think about the matters and talk about them. If you need any other information you can ring us by radio telephone or write to us. You can contact Neil Bell and he will do it for you. If you want us to come back later and talk about different things or give you some more information, let us know and we will do so.

Mr BELL: Uwa tjinguru nyura ngula idea kulira, mukurringanyi watjantjaku nganananya. Tjinguru nyura wire-amilalku ngayulakutu, alatji, ngayulu rawangu kulitjaku. Uwa tjinguru nyura ngula idea mantjira watjala, ka ngayulu nganana rawa wangkaku, kuwari nguwanpa.

Maybe later when you think of any ideas you will tell us. Maybe you might want to ring me. I will be able to listen to people for a long time because I will be working on this for a long time, for all the different ideas. When you people come up with ideas, tell us, then we will talk about it. I hope this will happen soon.

Mr HATTON: We will come back again as a committee later this year, probably in October or November, and hopefully by then you will have started to have some ideas that you will want to tell us about.

Mr BELL: Uwa, nganana committee nyangatja piyuku ngalya pitjaku, tjinguru October-angka tjinguru November-angka nyuranya kulintjaku piyuku. Tjinguru nyura ngula idea nyura panya kulira watjalku nganananya tjinguru October-angka November-angka.

Yes, this Committee will come back later to listen again to your views, maybe in October or November.

Mr HATTON: Maybe next time, to make it better, we will get a lot of communities together in some place so that we can spend 1, 2, or 3 days to talk properly. We need to talk, go away and come back so that we can get a feel for what people are saying.

Mr BELL: Tjinguru ngula nganana community kutju kutju kutu ankuntjaya wiya, tjinguru tjungu-nguwanpa tjintu kutjaraku tjinguru, tjinguru tjintu mankurku nyinara kulintjaku nganana uwankara tjungu anangu and committee tjuta.

Maybe we will go to different communities separately. No. Maybe in two days or three days we will get together to talk about how Aboriginal and European people can live together.

Mr HATTON: When we have gone around and found out what the people are thinking in all the communities, our committee will sit down and prepare what is called a draft constitution.

Mr BELL: Nganana idea palunya tjananya kulira, draft constitution walkatjunkuku. Nyura kulini draft constitution? Tjinguru ngayulu putu utilpai constitution watalpi wiya, piyuku palunya pipa palunya nyakula kulintjaku, draft constitution. Tjinguru change-aripai ngula, uwa draft nganana wangkanyi draft constitution, not a final one just a draft constitution.

We will make a draft constitution after listening to your ideas. Do you all understand about the draft constitution? Maybe I'm not interpreting it to you correctly. It won't be a constitution yet. We have to look at the draft constitution again. Maybe we will change the draft constitution later on. We say that the draft constitution is not the final constitution.

Mr HATTON: Everything that people have told us will be recorded and all of that information will be taken into account plus our own study. The result will be our idea for a constitution arising from all that.

Mr BELL: Nganana idea uwankara committee-ku, nyurampa, anangu kutjupa tjutaku idea, walpala tjutaku idea, nganana palunya tjananya idea palunya tjananya tjunkuku draft constitution-ingka. Palulanguru witu mulapa.

We will put into the draft constitution ideas from you people, Aboriginal people and European people as well. From then on it (the constitution) will be truly strong.

Mr HATTON: This is the second question that we are asking you. We want to take this work to another big committee of people from all over the Territory in what is called a constitutional convention. That committee is like a big drafting committee. Its job is to take our work and argue it through amongst all the communities, including the Aboriginal people from the Centre, the Top End and the towns, and non-Aboriginal people. In the convention they will all come together to start working it through, to say that they like some ideas and do not like others and so on.

Mr BELL: That is the third meeting, the constitutional convention.

Mr HATTON: Yes, when we have finished our work in the Assembly, we make a recommendation on how the convention should be set up. It is going to take our work and start the process of drafting a proposed constitution.

Mr BELL: Who will be on it?

Mr HATTON: That is what we are asking. Who do they think should be on it, in terms of making it really representative of the Territory people? That is why I said it is the second question I am asking.

Mr BELL: Nganana kulira idea palunya tjananya tjunkula nyiringka, nganana ngaratjukuntjaku constitutional convention. Ngananya nyinanyi constitution convention-ingka, nyura watjantjaku ngananananya watjantjaku, nganalu tjukururalipai? Law palunya. Tjutangku ngananya anangu. Tjutangku, walpala tjutangku, yaltji yaltji?

We will listen to all of the ideas people have then we will put them in a book which is call the Constitutional Convention. We are living in a Constitutional Convention. You must tell us everything. Who makes the right laws? Everyone must tell us, Europeans and Aboriginal people. How will we do it? How will all the Europeans people do it?

Mr BELL: When do you expect that to be considered?

Mr HATTON: We want to talk about that during this year too. Firstly, we want you to look at what you think should go into this book and, secondly, to think about how we should set up this big committee, this convention. Those are the 2 main things we want you to think about because that committee is going to prepare what is called the proposed constitution. When they finish their job, all the people of the Northern Territory have a vote to say yes or no. Those are the 3 steps.

Mr BELL: Uwa, wangka kutjara nyura nganana kulintjaku, idea nyaatjara constitution panya nyaatjara wangka kutjupa, nganalu ngurkantankuntjaku. Nganalu tjana ngurkantankuntjaku. Constitution uwa. So there's three things to do, idea kutjupa kutjupa mantjira tjunkuntjaku nyiringka, idea palunya tjunkula ngurkantankuntjaku. Nganalu ngurkantankuntjaku. Ngulaku piyuku constitutionta constitution tjinguru kuranmankuku.

Uwa mapalku wiya ngurkantankuntjaku, tjinguru nganana three years warkariku, well wals mulata, tjinguru purkara nguwanpa might be five years, tjinguru ten years, uwa mapalku wiya. Ka Paluru mukuringanyi nganana mukuringanyi, law ngaratjunktjaku. Uwankara palyamankutja, uwankaranku palyanmankuntja.

Yes, you must think about two thing. The first one is who will decide on the constitution? Yes, there are three things to do. One is to get ideas and put them into a book. Then we will have to choose who will decide on the constitution. Later, when we have made the constitution then all of the people will vote to say yes or no to the constitution.

Yes, we won't have to choose straight away. We will be working on this constitution for three years, five years or maybe ten years time. Not straight away. He

(Steve Hatton) and us (Labor Party) would like to make a constitution and have it agreed to by everyone.

Mr HATTON: And if we get it wrong then we start again.

There is a lot of work and it is not going to happen quickly. It would be really quick if it took 3 years. It is really important, if we are going to do it properly, that people throughout the Territory think about it and have their say and bring all the ideas forward. We go from our committee to the convention to the people. Those are the 3 steps. Because everything goes to the convention, the more we hear from the people in the beginning, the better. The better the convention, the better the job it will do. That is what we must work for. This process is really important for you and for your children because it is where you are going to say how are we going to make this Northern Territory a place which is good for everybody, where we can all live together with respect and with our rights protected. That is what we must work for.

Mr BELL: Nganana wankarangku palyanmankutja. Nganana mukuringanyi uwankara, walpala tjuta anangu tjutangku kulira. Ngapartji ngapartji nyinnantjaku, law palunya palyanmananyi.

Tjinguru nganana ngula might be three years, five years or ten years ngaratjunkuku constitution palunya ka yaltji yaltji change-milaiku. Politiciant tjutangku wiya, anangu tjutangku walpala tjutangku kutju. Tjana kutju kutjungku, vote-arinyi, constitution palunya change-amilantjaku.

When everyone agrees to it we would like everyone, European and Aboriginal people, to understand it and to live together with each other.

We might make this constitution in three, five or ten years time. The constitution then cannot be changed by politicians, only by European and Aboriginal people. To change the constitution everyone votes.

Mr HATTON: When you get that law, it can only be changed if all the people want to change it. It is a strong law. That is what is most important about it.

Mr BELL: Uwa, tjinguru nyura kuwara idea kutjupa kutjupa tjara, tjinguru idea wiya, tjinguru rapangku wangkantjaku.

Maybe people have idea now, maybe not. If people do have ideas then tell us. Don't be afraid.

Mr HATTON: I have probably talked enough now. Do people have any questions that they would like to ask us?

Mr ZIMMERMAN: I have a question. Why is the Northern Territory government trying to take control of sacred sites away from Aboriginal people to give it to the Minister of Lands? Is the

Northern Territory government prepared to give on the protection of sacred sites before Aborigines are prepared to discuss statehood? Will it guarantee control of sacred sites to Aborigines?

Mr HATTON: The Northern Territory government is not trying to take control of sacred sites away from Aboriginal people. The government is saying that there is a different way to protect the sites. There are arguments as to whether that is good or bad and that is why they are going out and talking to people around the Northern Territory now. The government thinks that it has a better way to protect the sites, especially in the case of land which does not come under the Aboriginal Land Rights Act. Your country is not affected because it comes under the Land Rights Act but it would be different if it was in Alice Springs, for example. Rather than people having to identify sites and to tell all the stories associated with it, the government is saying that all that needs to happen is for the people responsible for that country to be identified, the people who have the right to speak for that country. Those people could then say who could or could not go there. You would not have to tell the stories but you could still protect the sites themselves. It would not apply on Aboriginal land under the Land Rights Act. I should say that Mr Bell and I do not agree about this. It is something we are arguing about at the moment and he will only be translating for me here, not giving his own views.

Mr BELL: Paluru ngali idea kutjupa kutjupa anani kampa kutjara Country Party ku idea palumpa sacred sites act aku ka ngayuku idea kutjupa. Ngayulu mukuringanyi law kuwaritja tjunkuntja wiya, Sacred Sites act panya palya ngaranya.

He (Steve Hatton) and I have our own ideas. His ideas are for the Country Party and they want to see the Sacred Sites Act put into the constitution. My ideas are different. I am working on other issues because the Sacred Sites Act is already written down.

Mr HATTON: It does not apply on Aboriginal land.

Mr BELL: It does. It certainly could.

Mr HATTON: Doesn't the land council have special powers under the Land Rights Act?

Mr BELL: They do.

Mr SETTER: I think it is important to understand that sacred sites are controlled by an act of the Northern Territory parliament. They are not a matter that would be controlled in detail by a constitution, so you are talking about 2 different things.

Mr HATTON: I was going to raise this sort of issue in the context of the constitution. One of the questions being asked is, when you write the constitution, should you be writing in things to protect Aboriginal culture and Aboriginal law, so that the politicians cannot change it? That question is being asked.

Mr BELL: Nyura kulintjaku, tjinguru constitution-ingka tjunkuntjaku, sacred sites act nguwanpa, change-milatakutawara. Palumpa idea.

So that you understand maybe you want to put something similar to the Sacred Sites Act into the constitution so it doesn't get changed.

Mr BELL: Steve, I am saying that you are saying that matters such as the protection of sacred sites could be put in the constitution so that they cannot be changed. I am saying that that is your idea.

Mr HATTON: That is one option.

Mr BELL: In this translation exercise, I have an obligation, as well as directly translating what you are saying, to inject a few ideas of my own. I will certainly try to distinguish between them.

Mr HATTON: I understand that. The point I am making is that I do not know whether it would succeed in the constitution or not, but it is the sort of thing which needs to go into the melting pot. It will be put in, whether we like it or not.

Mr BELL: Tjinguru ananguku law kanyintjkaku constitution-ingka.

Maybe to keep the Aboriginal law in the constitution.

Mr BELL: We might be able to put in the constitution laws that protect Aboriginal land rights and sacred sites. That is one idea.

Mr BELL: Ngayuku idea, ngayulu rawanguku kulini. (My idea, I am still thinking about)

Mr BELL: I am still thinking about whether it is going to be possible to protect Aboriginal law in the constitution.

Mr BELL: Ngayula ngurkantankutja wiya. (I won't choose it.)

Mr HATTON: That is one of the reasons why this process will take a long time. It will be hard to think through because different people have different ideas. In the end we all have to agree on a way of putting the people together, Aboriginal people and non-Aboriginal people. In this exercise, we all have to think for ourselves and for the other person. In the Northern Territory, there will always be different ways of life. We have to find a way to live together and we have to get the rules right.

Mr BELL: Yes.

Mr HATTON: In fairness, I cannot say that something is automatically going to happen if this particular community says that it wants it. I do not want to mislead people.

Mr BELL: Paluru putu kalkuni idea kutju tjunkuntjaku constitution-ingka paluru nganana kulintjaku kutju.

He is trying hard to promise you the one idea to put into the constitution so that we can hear what is is saying.

Mr SETTER: In a constitution, it would be appropriate to recognise the importance of Aboriginal sacred sites. You could do that by some form of words. However, the control of those sacred sites and the operation of the sacred sites authority would normally come under the control of legislation or a law made by the parliament. We need to define which goes where.

Mr HATTON: Have I answered your question about sacred sites? I do not know what will happen with the proposed changes to the Sacred Sites Act. The arguments are going back and forth. Maybe the situation will remain as it is at present and maybe it will change. That is the way governments operate in relation to the process of making any changes to the law.

I have to be careful too. Just as Neil Bell has to explain his position, I have to be careful about the views I put. I am not here as a CLP government person. I am here as chairman of a committee that has Labor Party and CLP members. I have to walk the middle line in this job. It is not the same as partisan politics, where we all take sides and argue.

The only thing I can do is ask you to look at what the government is proposing in relation to sacred sites. I know that people are going around to the communities to talk about the proposed changes and to receive views. No one is trying to take away the protection of sacred sites. It is simply a case of different ideas about how best to do it. That is what the argument is about, not whether sites should be protected or not.

Apart from the question of sacred sites itself, issues such as protection for your language, your culture, your law, your land and your rights, are the sorts of issues which have to be considered in drafting a constitution. It is, in that sense, a big law to provide the protection. It says what the politicians can do and what they cannot do. That is why I linked the constitution to the issue of sacred sites, because it is one of the specific questions being asked.

Mr SCRIMGOUR: Do you want people to think about whether they want statehood and a constitution or has that already been decided, so that you just want people to think about what should be in the constitution?

Mr HATTON: We are proceeding to write a constitution as a Northern Territory community. When that is complete, we will start asking if we should become a state. People will then be clear about the issues. The question of statehood arises after this job is complete. It cannot be accomplished before then. We cannot really talk about becoming a state until we know what sort of place we want this to be. Once that is done, people can decide whether or not they want statehood. When we finish writing the constitution, we can then ask people: 'Do you want to become a state and, if so, when?'

Mr SCRIMGOUR: If you draw up the constitution and then decide you do not want to be a state, the constitution gets thrown out.

Mr HATTON: Well, the constitution sits there.

Mr SCRIMGOUR: It is not used.

Mr HATTON: It cannot come into force until we become a state.

Ms GORDON: In that case, shouldn't the first question be whether or not people want statehood, rather than what they want in a constitution?

Mr HATTON: As I said at the start, the first step in this exercise is for people to recognise that it is inevitable that, one day, whether in 1 year or in 20 years, the Northern Territory will become a state.

Mr CARRICK: What assurances can a constitution give these people in regard to land rights, sacred sites and the security that the federal government now gives them?

Mr HATTON: I would argue that it is possible to provide greater protection to these people through a constitution than is provided at present. At the moment, the only thing which protects Aboriginal land is the federal Land Rights Act which can be changed, amended or repealed.

Mr CARRICK: If it is written into a constitution it cannot be changed. Are you saying that it should be taken out of legislation and placed in a constitution?

Mr HATTON: If you put protection into a constitution, it can only be changed then by a vote of the entire populace. You write in the rules on how you change it, and the level of entrenchment.

Mr CARRICK: What confidence can Aboriginal people have in the present government, when it is spending millions fighting land rights?

Mr HATTON: I think it would be fair to say that the Aboriginal people do not trust the Northern Territory government on the issue of land rights. I accept that. We have made this comment elsewhere. It is one of the reasons the issue is being raised - how do we provide protection? It has been said time and time again that nobody wants to take the land away from the Aboriginal people. Everyone is guaranteeing the continuation of Aboriginal land.

Mr CARRICK: For all of the claims that have been ...

Mr HATTON: People do not trust our word on that.

Mr CARRICK: And for all the claims that have not been granted and that have been contested continually?

Mr HATTON: There has been a lot of contesting in relation to claims and proof of traditional ownership. Equally, particularly in the last couple of years, a number of claims that have been resolved by negotiation. More and more of these matters are being resolved by negotiation. We are all growing up.

Mr CARRICK: It seems that Aboriginal people may have to give some serious consideration to what they can actually get written into the constitution to protect their interests.

Mr HATTON: Those issues are dealt with in the booklet. Equally, Aboriginal people should come forward and tell us those things. It is not just our ideas. We are asking the Aboriginal people what their ideas are and what assurances they need. Basically, we are starting with a blank sheet of paper. I might say also that ...

Mr BELL: The protection of sacred sites and national parks are pretty tough areas of the Land Rights Act. There are no 2 ways about it.

Mr HATTON: There are 3 books which deal in turn with land matters on statehood, minerals and energy resources on statehood and national parks on statehood, and I will leave a copy of each for people in this community to read along with the other books. If you want further information, this book contains material about constitutional and legislative changes that may be necessary in the process of achieving statehood. Lastly, there is a book on the different ways you can take to become a state. We are, of course, at the very beginning.

I do not know how clearly I can say this. I have ideas, he has ideas, and I hope you have or will have ideas. The only basic rule is that we cannot contravene the federal constitution. We cannot, for example, become a republic. The federal constitution does not allow that to happen. Within its limitations, however, we can make our own constitution. That is the whole essence of it. It is a unique opportunity and it has not happened in this country for 100 years. It is probably the first time, in Australia, that people have had an opportunity from the very beginning to frame a constitution that everybody - or at least the vast majority of people - will be happy with. That is what I am trying to say. I am not trying to put any fences around what can or cannot go into the constitution, just the opposite.

Mr SETTER: I think it is important to come back to the points that you made earlier about the protection given to Aboriginal people by the Commonwealth government. The reality is that that protection, if that is what it can be called, is only as strong as an act of parliament which, of course, can be changed at any time by any Commonwealth government. There is nothing in the Australian Constitution which entrenches or protects Aboriginal people at all.

Mr EDE interjecting.

Mr SETTER: Sure. What we are proposing is that the Northern Territory constitution may have things written into it which protect the rights of Aboriginal people. We are travelling around the whole of the Territory, including many Aboriginal communities, asking people what they would like written in. As Neil rightly pointed out, land rights, sacred sites and national parks are controversial matters. If you read the thick green book, it will detail for you the various discussions that we have had as a committee and the options that we have put forward. There may well be other options and, doubtless when you read that, you will have a preferred option on various matters. That is what we are here for - to talk to people and seek their views.

Mr HATTON: Does that clarify the point?

Mr CARRICK: It is clear for me but I am not sure about other people. The issue is one of getting people to think about what needs to go into that constitution to create better protection than what already exists through legislation of the federal parliament.

Mr BELL: Let me try to summarise what you are saying. Firstly, land such as this land at Kintore is held under title which applies under the Commonwealth Aboriginal Land Rights Act, which is a pretty secure form of tenure and may indeed be complemented by the current Sacred Sites Act to the extent that it would need to apply on Aboriginal land. If the situation were to change so that that sort of fairly strong recognition of Aboriginal rights and land were to be devolved to a Northern Territory parliament, what sort of constitutional guarantees would there be to ensure that there was no weakening in terms of the current position? Does that summarise the issues?

Mr HATTON: Yes.

Mr BELL: Kuwari law panya ngaranya Canberra-languru Aboriginal Land Rights Acts, nyura title witu kanyini, ngura nyangaku. And ngura kutjupa kutjupa tjukuritja kujupa tjuta and ngura miilmiilpa kutjupa tjuta. Nganana law-angka walpala kulu wangka kanyini ruwantakutawara, Land Rights Act-ingka and Northern Territory Act-ingka uwa alatji kuwari.

Today there's that law, the Aboriginal Land Rights Act from Canberra. You have a strong title law to keep your home land, women's dreaming site and men's dreaming site. We also have the Europeans laws in the Land Rights Act and the Northern Territory Act. Yes, that is in place now.

Mr BELL: That is right, is it Graham? There are sacred site protection provisions in the Land Rights Act, but there is no reason why the Territory Sacred Sites Act does not operate on Aboriginal land as well.

Mr NICHOLSON: But we might have a different operation.

Mr BELL: A different operation.

Mr NICHOLSON: They already have a permit system on Aboriginal land to start with.

Mr BELL: Yes, right.

Mr BELL: Wiru nganana kuwari kangyini, ananguku ngura, anangu tjutangku kanyini title witu tjanampa ngura. Nyura kulini iriti tjawalpai ngalyapitjala ananguku ngurakutu ruwantjaka tjapintja wiya anangu tjuta.

Today we look after Aboriginal people's land very well because Aboriginal people have a strong title for their home lands. You all know about the miners that came onto Aboriginal Land without permission and they destroyed the Sacred areas.

Mr BELL: I have just said that, before there was a land rights act, miners could come to Aboriginal land and dig wherever the government said they could dig. They did not have to ask Aboriginal people about it. That has now changed. You now have strong title.

Mr BELL: Alajji kuwari well ngula yaltji yaltji title witu kanyintjaku constitution-ingka, Northern Territory constitution-ingka. Yaltji yaltji kanyintjaku ngura miilmilpa tjuta ngura tjukuritja tjuta. Yaltji yaltji kanyintjaku constitution-ingka, tjinguru title witu wiya, tjinguru title upa nguwanpa. Yaltji yaltji kanyintjaku.

That's how it is today but later what title will we have in the constitution? A strong title to protect the men's sites and women's sites. Maybe we will have a strong title or nothing. How will we protect the sites?

Mr BELL: I have just said that I do not have the answers right now but, and I am saying this as the member for MacDonnell, I am going to do everything in my power to make sure that neither Canberra laws nor Darwin laws for the Northern Territory weaken the title that Aboriginal people have to their country. Nor will I stand by whilst laws protecting sacred sites are weakened.

Mr BELL: Ngayulu ngurkantankuntja wiya yaltji yaltji constitution panya ngayulu tjunkuntjaku. I haven't decided, ngayulu ngurkantankuntja wiya. Ngula mukuringanyi constitution-ingka rawanguku ananguku kanyintjaku, ngura palumpa tjanampa.

I haven't decided how I will choose the constitution. What I would like is for us to make a strong law to protect Aboriginal people's sites and other things also.

Mr BELL: I have not decided. You have to think about it too. We have to make sure that the idea is right. Frankly, I foresee some problems in making sure that that happens.

Mr HATTON: I do not know the answers either. I know that the question is there. That is why we are walking around talking to people. That is what this whole thing is all about, to start people thinking about it. Maybe, out of the whole Northern Territory community, someone will come up with a way of putting it together.

Mr CARRICK: I wanted the issues to be put to these people. I think that the direct questions and issues involved should be put forward for them to respond to in an adequate way.

Mr BELL: Yes, sure.

Mr HATTON: There are other things too. There are some special and important questions for the Aboriginal people but there are other general questions that need to be addressed: who can vote, who can stand for parliament, how many people should be in parliament, what can the parliament do, what can it not do?

Mr CARRICK: Does freedom of religious practice come into a constitution?

Mr HATTON: Yes, it can. One of the questions being asked is: should there be a bill of rights type of provision in the constitution or should that best be left for a national constitutional arrangement? Indeed, should such matters be written down at all?

Mr SETTER: Graham, how is that addressed in the Australian Constitution?

Mr BELL: I thought you mob had already given your answer to that.

Mr NICHOLSON: There is a guarantee against establishment of religion but it only applies to the Commonwealth. If you remember, it was in the recent referendum which was lost.

Mr HATTON: Some of the states have it, don't they?

Mr SETTER: Right, but it was mixed up with other things.

Mr NICHOLSON: Only Tasmania.

Mr BELL: You blokes campaigned against it.

Mr HATTON: All of the Australian states - Queensland, New South Wales, Victoria, Tasmania, South Australia and Western Australia - have their own constitutions and they are all just a little bit different.

Mr BELL: Constitution ngaranya state kutjupa kutjupaku Western Australia, South Australia, Victoria, New South Wales, Queensland and Tasmania uwankara constituion-tjara.

There's a constitution in Western Australia, South Australia, Victoria, New South Wales, Queensland and Tasmania. All of these states each have their own constitution.

Mr BELL: Can I just ask a question just for my own information? One hears a lot of public debate about the Australian Constitution and there is always a lot of publicity given to referenda to change it. One never hears about constitutional change in the states. Perhaps I read the wrong newspapers.

Mr NICHOLSON: There is a very simple answer to that. Most of the state constitutions are not of the entrenched variety. They can be amended by a special majority of the House itself. They used to require a reservation to the Queen but most of them do not have any requirement for referenda. Some have a few provisions requiring referenda but no more than a few.

Mr BELL: Do those parliaments change them quite regularly?

Mr NICHOLSON: Quite regularly, yes.

Mr BELL: How come they never ...

Mr HATTON: Because they just do it, like an act of parliament.

Mr BELL: But why are they not reported? Are they so insignificant that journalists do not bother to write news stories about them?

Mr NICHOLSON: Most of the state constitutions are based on an old colonial model and they are really only the basic structure of the parliament. They are not in the contemporary form that we now know as constitutions. Most of their provisions are just in ordinary legislation.

Mr BELL: They just govern the number of people in the legislature and that sort of thing.

Mr NICHOLSON: Yes, but they vary in respect of entrenchment. For instance, the Upper Houses in New South Wales and one other state are entrenched, whereas in Queensland it is entrenched in the opposite way - there can only be one House. Change to those provisions can only come about through referenda. Most of the state constitutions, however, can be changed without referenda.

Mr HATTON: One of the questions we are asking, of course, is how much should be entrenched in the Northern Territory constitution? The committee's recommendation is that nothing should be changed except by referendum. The next question is what percentage of the vote is required to have a particular provision changed. In other words, it can be entrenched to a greater extent than just an absolute majority in a referendum. You can require something to have a 75% majority, for example. You write your own rules.

Mr NICHOLSON: None of the states have any entrenched human rights other than Tasmania, which has a guarantee of religious freedom.

Mr BELL: And Aboriginal people are not mentioned in any of the state constitutions.

Mr NICHOLSON: Not at all, not at all. We are breaking new ground in this exercise.

Mr HATTON: This is the first time it has been done in Australia for nearly 100 years and there have been a lot of changes in society in that time. These issues, essentially, are being looked at for the first time in the constitutional setting and it is an opportunity, in fact, to maybe set a lead for other parts of Australia.

Mr BELL: I am not sure how much of that I can translate.

Mr BELL: Lawyer paluru paluru ninti constitution kutjupa kutjupa tjutaku, ka ngayulu palunya tjapiningi, yaltji yaltji change-milani Australian constitution. Yaltji yaltji change-milani state tjutaku constitution. Uwa, ka paluru watjanu, state tjutaku constitution nganana kulintja wiya. Panya constitution palumpa tjanampa witu wiya nguwanpa. Uwa, but Australian constitution witu nguwanpa, nganana rawangu kulini, yaltji yaltji change-milantjaku Australian constitution.

The lawyer knows about many different Constitutions and I was asking him how can the Australian Constitution can be changed and how the state constitution can be changed, and he said that we should not look at their Constitutions because they are not very strong. The Australian Constitution on the other hand is so strong that we have tried to change it without any success.

Mr HATTON: Do you remember last year they had those, we all had to vote on changes to the constitution? They did not.

Mr BELL: Mungatu nganana tjapinu four questions change-milantjaku Australian Constitutions nyura kulini. Nyaaku? Vote-aringantjaku? Constitution change-milantjaku. Ngayulu tjaningingi palunya, yaltji yaltji nyanguru nganana kulintja wiya state tjutaku constitution. Uwa alatji palya.

Recently we got everybody to vote (the referendum) and we asked them four questions in order to change the Australian Constitution. I told him (the lawyer) that we were thinking about making a constitution, and he told me that we shouldn't look at the other Constitution. Yes, is this alright?

Mr HATTON: Are there any other things people want to know?

Mr BELL: Tjinguru nyura mukuringanyi ngananaya watjantjaku, nganananya tjapintjaku.

Maybe you would like to ask us some questions?

Mr ZIMMERMAN: I have one more question. Will the Northern Territory government guarantee not to impose statehood on Aborigines if they do not want it?

Mr HATTON: The Northern Territory government has said that it will not impose statehood on anyone unless they want it. The Northern Territory government has said that, before statehood, it will put the issue to the vote of all the people of the Northern Territory, and that includes Aboriginal people. Does that answer your question?

Mr ZIMMERMAN: Yes.

Mr HATTON: We are not rushing down the road to statehood. It is a long way off. There is a lot of work to do.

Mr ZIMMERMAN: I am asking these questions so that these old people can understand what we are talking about and so they can be clear about what is going to happen in the future?

Mr HATTON: We will not even ask about the question of statehood until we finish this job on the constitution.

SEVERAL UNIDENTIFIED PEOPLE speak in an Aboriginal language.

Mr HATTON: Do you want to ask a question?

Mr NICHOLSON: Do you want to ask a question about land councils? What was your question? Will the land councils continue? Is that the question? He wants to know if the land councils will finish when the constitution is introduced.

Mr HATTON: You tell me. What do you think?

Mr MAJOR: When the new law comes out, will the land councils still be there or will they be finished?

Mr HATTON: I think we should ask you that question. Do you want then to continue?

Mr MAJOR: Yes.

Mr HATTON: That is a matter for you. That is your land council, not mine. We have no problem. If you want it, you keep it going. It is your land. How do you want to manage your land? I am not going to say you can do this or you cannot do that. We talk.

(Majority of the language spoken not audible)

UNKNOWN SPEAKER: Yaltji yaltji palaku Land Council law nganana-tjunanyi, constitution-ingka change-milantja wiya land council.

How will we put the Land Council law into the constitution without changing it?

Mr BELL: If the Land Rights Act became Northern Territory legislation, there is no reason why the land councils would be changed.

Mr HATTON: That is right. As this booklet says, we want to go and talk to the Aboriginal people so that they can give us their views. Are you saying that you want the Land Rights Acts to stay exactly the same? Is that what you want? Or are there some things that you want to change it for the better? We just want to ask you that question. We are not saying that we are going to force it to change. We want to talk with you to see whether the way it is going now is the best way or whether there is some other way. Maybe you want to do it a little bit different. That is a matter for you to talk about and you can then tell us what you think.

SEVERAL UNIDENTIFIED PEOPLE speak in an Aboriginal language.

Mr CARRICK: There is no recent experience of writing a constitution so it is very hard to know what can be written into it. It is more important to have a range of options put forward so that people can consider them. As it is, no options have been raised.

Mr HATTON: A lot of the options are in the book and I could spend a long time going through them. It seems to me that it would be better if people like yourself in the community could go through the book and talk about the issues to get people thinking about them over a period of time. The options are there.

Mr CARRICK: We have not seen the book until now.

Mr HATTON: Yes, and that is why I am not asking you to tell us what you are thinking now. We may not have covered everything in the book. We may have missed things. I would not want anyone to assume that that is as far as you can go and that you cannot go any further. In terms of trying to get the message through, this is only like the first day of a long year.

Mr HENDERSON: Would a state constitution affect the way communities like this one operate?

Mr HATTON: Not necessarily. It could be run in the same way as it is being run now. One of the issues which has been raised relates to the constitutional entrenchment of the right to local government, community government or, perhaps, other forms of local government. It is one of the issues that can be dealt with.

Mr SETTER: This is just an introductory visit to give you a broad outline of what we are on about. The booklets are being left with you. If you read through them and discuss them, we can probably have a more meaningful exchange of views when we come back.

Mr CONWAY: One this statehood is done can an Aboriginal fellow from here run for the Legislative Assembly?

Mr HATTON: Yes. That can happen now. Of course, we have to write the rules to make sure that that can happen. We need to cover all those things and to make sure that particular rights like the right to stand for parliament are protected so that they cannot be taken away.

Mr CONWAY: (Inaudible).

Mr HATTON: If you can sit down as a community and think about the issues set out in the booklet, you will be able to give us your views when we come back. Remember also to think about how we should get the people to form that constitutional convention to take our work and to write further. It will not just be me writing it.

Mr CONWAY: We could get 2 blokes from here.

Mr HATTON: Maybe. We have to think about how many people from the Top End, how many from Alice Springs and everywhere else. We have to think about what sort of mix of people we should have. That is the other question. How do we make sure that the people who speak represent everyone and think for the people?

Mr ZIMMERMAN: There will be a problem in tribal areas where old people will not be listening to you when you speak English. There will be language problems. They need somebody to interpret and make it clear for them.

Mr HATTON: I agree. We need to think about not only who will be there but how the convention is conducted to make sure that everybody is fully part of it. Maybe you have some ideas about the need for interpreters and so on. How should the meetings be organised? Where should they be held? That sort of thing. They are important matters and you have views about them. We would like you to think them through so that, when we come back to you, you will be able to inform us properly about them. We will then be able to take them into account when we sit down to write.

Mr BELL and UNKNOWN SPEAKERS: Palya. Nyura kulini nyangatja, wangka ngura kutjupa kutu anyi, pulka panya meeting nyanga nguwanpa. Wangka uwankarangku tjakultjunanyi, and anangungku easy kulini, panya wangka waltjangku wangkanyi. Putu kulini, putu kulini, you can nyinara kulinma little bit hard nguwan. But wangka walytjangku tjakultjunanyi clear kulini you know,

uti (from here on it's difficult to hear what they are saying). Yaltjingara ngalyankuku piyuku. In October or November, about six months.

Good, Do you all understand about this business that we are talking about? We will go to many different communities. What we are saying now will be said again in your own language in a big meeting so that everyone can understand. If you don't understand now don't worry because there will be people who speak your language telling you everything so that you can understand. (from here on it is hard to translate what is being said) When will we come back? (Neil Bell talking, but it's not clear) In October or November, in 6 months time.

Mr HATTON: There is no fixed time. That is when we are planning to come back but if everything is not sorted out by then, it may take longer and we may not come back until next year. It is important to do this properly rather than just to do it by a certain time.

Mr BELL: Date tjunkuntja wiya, October or November tjinguru, ngura kutjupa tjuta kutu ankula piyuku ngulapanguwan.

We haven't picked a date yet, maybe in October or November we will come back.

Mr ZIMMERMAN: If the booklet was written in our language, we would be able to understand it better.

Mr HATTON: Can we get it written in language?

Mr ZIMMERMAN: It would be better because we cannot understand.

Mr HATTON: We could look at that. Which language?

Mr CONWAY: Any language.

Mr HATTON: I will get Mr Bell to help me translate it.

Mr BELL: Just sitting here thinking about it, perhaps there would be no harm in having it put into the 3 languages that would cover the Centre. (Speaks in an Aboriginal language).

Mr BELL: Wangkatjara, Pintupitjara, Pitjantjatjara nyara Institutu-ingka palyantjaku. Town-ingka tjinguru, Luritja, tjinguru Arrernte, tjinguru Nyampuju (not audible) Panya nyura Luritja kulintjaku, Luritja kulilpai nyura.

We will get what we have said here today translated into language so that people can understand what was said. We will get it translated in town (Alice Springs) at the Institute for Aboriginal Development) in maybe Luritja, maybe

Arrernte and maybe Warlpiri. (not audible) If all of you speak Luritja then it will be written in Luritja for you to read.

Mr HATTON: Can you advise on that?

Mr BELL: Yes.

Mr HATTON: Okay. This man is Mr Gray and he is the executive officer for the committee. He is going to work with Mr Bell about having it translated into different languages. Okay.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

FINKE — Thursday 6 April 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 Johnny BRISCOE (Translating
for Unidentified Aboriginals)
Mr Alfred DOOLAN

NOTE:

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

Mr BRISCOE: Panya nganampa kanyini yangupala tjuta nyakuntjaku panya readaripai tjutangku tjarpara readamilarar nyakuntjaku. Ka ngurpa tjutangku kulilpai.

Ka tjana ngalya yanu pipa nyanga palunya kulira ngaatjikitja kulira wangkara nganana yaaltji yaaltji kanyilku, nganana taaltji taaltji ngura nyangangka nyinaku. Palunya, palunya wangkantjikitja pipa nyangatja nintilkitja kutjupa tjuta ngalya yanu nganananya kulintjikitja uwankarangku. Walypala nyangangka nyanga wangkanyi ngananya paluru Steve Hattonanya, and he's goint to explain about the book nyangaku ka nganana kulintjaku ka paluru wiyaringkunyaangka ngayulu tjinguru tjuku-tjuku wangkaku. Ka nyura kanmatu kulila palunya. Nyanga palumpa waarka panya ngaranyi panya chairmanaku waarka. Chairman got to support mitingki palumpa alatji ngaranyi, nyangatja ngayulu wangkanyi. Alatji waarka palumpa nyangatja atunymankuntjaku titutjarangku. Pipa nyanga alatjinkatawara tjinguru chairman wiyangka wiyaringkupai. Palu nganan kulilpai strong nyinantjaku. Palya?

PEOPLE: Uwa.

We have got this book and the young people who can read should read it.

But for people who can't read just listen to what we will be saying. They have all come here with this book to tell us about it and to ask for our view on it. They will be asking us how we will have the book and how we live here on our land.

This white man here whose name is Steve Hatton is now going to tell us everything about the book and when he's finished talking I will say something too. You people will have to listen to him quietly.

He is a chairman and his work is important and he has got to support this meeting. Without a chairman we can't have a meeting. So we have to be strong and listen to him. All right?

Yes.

Mr HATTON: Thank you. I think I should just explain. My name is Steve Hatton and I am the chairman of the Select Committee on Constitutional Development, which is a committee of the Legislative Assembly of the Northern Territory parliament. Mr Rick Setter and Mr Wesley Lanhupuy are members of the committee. On the inside cover at the back of the book we gave you, you will see pictures of all members of the committee. It has 3 members from the CLP and 3 from the ALP. It is a special committee of the Legislative Assembly because it has both Labor Party and CLP in the same numbers. That is because the 2 parties are not fighting about the thing we are talking about now. We are working on it together.

Mr BRISCOE: Uwa. Wangkangu panya kuwari paluru walypala nyangangka wangkangu panya pipa nyangatja. Pipa nyangatja ngarinyi. Nyaa pitja panya tjuta nyura nyangu kuwari pitja tjuta ngarantjala. Nyanga palu tjana nyanga palumpa waarkarinyi. Nyaa panya CLP manu Labor Party palu tjana. Mukuringkula kulini palu tjana uwankara nganananya, atunymankuntjikitjangku. Panya yaaltji yaaltji tjana runamilalku nyanga palunya. Ka tjana mukuringanyi ngananala wangka kulintjaku. Nganana kulintjaku yaaltji yaaltji tjana wangkanyi. And, nyanganyi ngura nyanga

tjananya, ngura winki, not only nganananya, ngura winki, tjana para nyanganyi. Ka nganana kulintjaku.

What he said said now was about this book which we have. We all saw the pictures about this book too. These people all work for the CLP and the Labor Party and together they are saying that they want to help us to run our lives. They also would like to hear what we have to say about what they will be saying. They will also be looking at our country. They are going around to many communities and talking, not just here. So we can all know what they are talking about.

Mr HATTON: You have probably heard a lot of talk about the Northern Territory becoming a state. Some people think that is a good idea and that it should happen quickly. Other people are not happy so happy about it, particularly with the idea that it should happen quickly. We are not asking you if you think the Northern Territory should become a state now or not. We are not asking you that question but we do ask you to realise that, one day, whether it be in 1 year or whether it be in 5, 10 or 20 years, the Northern Territory will become a state. That will inevitably happen.

Mr BRISCOE: Palya. Nyura kulinin nyanga palunya wangkantjala somepalanku kulinu panya wangkantjala kuwari. Palu tjana watjanu later on might be after five years ten years or twenty years or before that, maybe happen. Alatjinka ngarantjakutawara ka nganana kulintjaku, wangkara kulintjaku. Nganana yaaltji yaaltjikngku ngura nyangtja kanyilku, tungunpungkula nganana ngatjirintjaku ngura tjanampangka. Palya?

OK, most of you can understand what he is talking about. What he said was later on maybe in five years, ten years or twenty years time it will happen. We have to listen very carefully, so we can understand what is happening, so we can all look after the land. OK.

Mr HATTON: So we are not asking you to say whether you think the Northern Territory should become a state now or not. That is another question for another time. Before you can even start to think about it, you need to know what sort of place the Northern Territory is going to be when it becomes a state, how you want it to work. You want to make the rules, the laws, about how a state would work. It is the people who make those laws, not the politicians, not the government. They make those laws in a thing which we call the constitution.

Our job is to go and talk to the people, and to get them to start thinking and talking about what sort of laws they want, what sort of rules they want about how the Northern Territory should work, what rights should be protected, how the parliament and the courts should operate and all those sorts of things.

Mr BRISCOE: Uwa. Nyura kulinu panya paluru wangkantjala somepalanku panya wirura kulilpai. Ka ngayulu palunyatjara watjani paluru wangka nyanga palunya watjani. Panya like ngura

yaaltji yaaltji nganana kanyilku, yaaltji yaaltji nganana kulilku tjanala panya wangkantjala. Pipa iyani ka nganana kulini ngura tunguntu kanyintjaku.

Tjinguru kampa jurjupa wiyangu tjinguru nganananya tjitji tjapu nguwanpa itamilalku. Paluru nganana anangu kulira strong kanyintjkaku. nyanga palungka nganana wirura nyinantjaku panya uwankara kulintjaku, waarka nganampa palya kanyintjaku ngura kulu startamilantjaku. Nganana waarka yaaltji palunya tjana kanyintajaku tungunpungkula. Palu tjana panya ngalya tjarpara tjinguru paluru tjanampa katiku ka nganana kulintjaku. Palya?

OK, you all hear him speaking because most of you can understand English very well. I am nor going to say what he just said. He said, 'How are we going to live here? and what will we think of the book when they send it to us so we can read it. When we listen to their talking we have got to be strong so we can look after our land strongly. Because if we don't stand up and speak up strongly they will treat us like children. When they listen to us then they will look after us strongly. So we all can live together here in the N.T. and get on well with each other. We want to start our own outstation, keep our jobs going and to have the power to be in control of everything that is ours.

They have come here to get something from us. We have to make sure that they don't take it away and use it to their advantage. This is why we have to understand everything that they are saying. OK?

Mr HATTON: This sort of law is not like the other laws, such as the dry areas laws or all the other sorts of laws about fighting and so forth, which are administered by the the police. It is not like those sort of laws. It is a law that is there all the time. It is a law that says the politicians can do this and the politicians cannot do that. It says: 'These are my rights as a person'. It is a law which the politicians and the government cannot touch. It is safe, protected. That is the sort of law we write when we make a constitution.

Mr BRISCOE: Uwa. Wnagka palunya kina, paluru jutjupa kina paluru wangkanyi. Nganana kulintjaku panya tjinguru nganana yaaltji yaaltji nyinaku kampa kutjupa, kampa kutjura. Tjinguru palu tjana ngananala wana tjarpaku, tjinguru nganana palya strong kutu nganana kanyilku. Ngura nyanga tjananya not only ngura nyangatja, ngura winki tjana alatji kulini yaaltji yaaltji tjana runamilalku, anangu panya look afteramilantjaku ngura winkingka warka nganampa. Palya?

OK. He's again saying the same thing that he said before about how we will all live altogether. Maybe we'll live one way or maybe we'll live another way.

They might want to join in with us. If we are strong then we will have no problems looking after our land. It's not only happening here. This thing is happening in all the other communities as well. People will be talking about how they will runt heir

communities and how to look after all the people in their communities, just like we are doing at the moment.

Mr HATTON: Once this law is put in place, it is there for a long time. It does not change. Politicians and the government cannot change it. Only the people themselves can change it. It is a strong law, very strong. And it is very important that, as we make this law, all of the people think about it, talk about it and make sure that they have their say on what it contains. That is because it is going to be a strong law which will be there for a long time. It is a law that will affect our children and our grandchildren and their children. It will say how we want this Northern Territory to work in 10, 20, 30 or 40 years time, a long time in the future. It is the law which is about the sort of society we want. If we get it right, we will have a very good place. If we get it wrong, we will have trouble. That is why we must all work together to make it right.

Mr BRISCOE: Uwa. Wangka kina kampa kutjupa paluru wangkanyi, panya kulintjaku nganana uwankarangku. Like ngayulu panya watjaningi palunyatu. Yaaltji yaaltji nganana kanyilku nyangatja nyanga like panya paluru watjanu 30 years, 20 years palunya tjananya. Tjinguru malatja tjutanku kampa kutjupankuku, tjinguru malatja tjutanku tjukarurungku kanyilku. Palu nganana uwankarangku kuranyutja tjutanku must look afteramilantjaku ngura nyangatja pulkara kutungku. Paluru tjana nganananya kulintjaku nganana ngapartji, kutungku. Paluru tjana nganananya kulintjaku nganana ngapartji, kulintjaku palu tjananya. Ngapartji alatji ngapartji ngapartji. Palya?

OK. He is saying the same thing again only in another way so we can understand it more clearly; the thing about how we will look after our land and how we will look after it in 20 years time and 30 years time. The young people after us might change the way of looking after the land from the way we look after it or maybe they might not change it. It is up to us first people now to look after the land properly. Then the young people can learn how to look after the land properly. These people have to listen to us and we have to listen to them in return.

Mr HATTON: We have just given out copies of a book about the sorts of things we will be talking about in making this law. We will also leave more copies behind with the council. It is just a starting book. It has a few bits of ideas about some of the things we have been thinking about. We have other books. There is this big one and that one, and we will leave them here too. The big book took us 3 years to write and we looked all over the world to get ideas.

Mr BRISCOE: Uwa. Kuwari, paluru watjaningi nyura uwankarangku kulinu someplanku wakantjala kulilpai. Ka ngayulu same story palunyatu watjani. Nyaa panya palu tjana kulilpai para ngarala ngura winkinguru kulilpai para ngarala ngura manta kutjupangka. Yaaltji yaaltji tjana nyinantjikitja mukuringanyi ka tjana pipa nyangatja tjunanyi. Tjunanyi ngura winkinga nganana nyakuntjaku yaaltji yaaltji nganan kanyilku, tjinguru nganana nganampa wai kanyintjaku. Well palya tjinguru tjanampa wai kanyintjaku well, palya kina. Palu nganana kulintjaku tjana yaaltji yaaltji nganananya unganyi. Ka nganana anangu tjuta nganana kulinin nganampa wai. Ka walypala tjuta kulini tnamapa wai kulintjaku. Palya?

OK. What he said now, you all heard, but only some of you understood him. I am saying again the same thing that he said. They will be going around to all the communities to ask people what they want to put into their book. In the book people will be putting things like this into the book. Maybe in the book we will say that we want to live our own way. That's good too.. Or maybe we will say that we want to live like them, which is good also. We have to listen to what they are saying because when they give us something we have to decide what to do with it by ourselves, because they will decide by themselves what they want to do with their own thing too.

Mr HATTON: The ideas in the big book came from all over Australia, America, Africa, the West Indies and so on. They are different ideas about the sorts of things people put in constitutions. We do not agree with all of them. You may not agree with some of them. We have put everything down, all the different things we could think of so that everybody can look at all sorts of things and say: 'We want that. We do not want that'. You might be able to think of other things that we did not find. We want you to tell us those things.

Mr BRISCOE: Uwa. Wangka palunya kina wangkanyi panya yaaltji yaaltjingu kanyilku. Palu tjanampa law kanyini walypala tjutangu nyakula, nyakula nganampa kulira, kulira tjana tjunanyi. Ka nganampa wai panya nganampa tjamula tjanala. Irititjanguru nganana kulintjaku yaaltji yaaltji tjamulu tjananya nintiningi kukaku, rapitaku tjanampa. Panya nintiningi iwaraku nyakuntjaku nganampa law kampa kutjupa, ka tjanampa bookangka tjunanyi nganana kulintjaku. WArka tjanampa yaaltji yaaltji ngaranyi. Nganana nintirinkula wanani tjiti malatjangku kulintjaku alarji palu tjananya tjunanyi. Ka nyanga paluny nganana kulintjaku munu wirura kanyintjaku, maybe strong nganana nyinantjaku. Ngura nyangangka kulini wantintja wiya charimanangu helpamilantjaku, councillorngku helpamilantjaku. Warka palumpa tjanampa ngura manta kutjupa kutjupangu tjana nyinangi. Yaaltjingu kanyintjaku tjanampa wai ka nganana kulintjai nyangatja. kulini? Palya.

OK. Again he is repeating what he said before. He is asking us how we will look after the land.

The European people have their own law but they want us to join them. That's why they are talking to us about the way we live and for what we want to go into this book. Our ancestors way was like this. They taught us about all the animals like the rabbits and others also. They taught us to track the animals. All this they will put in this book. Also in this book they will be telling us about their work. When we understand this and follow it then our children will do the same. So, we must understand this and follow it correctly, so that we can remain strong and in control of our lives. The chairman and councillors must help the people because it's their work. They must help the people if the people wish to live a certain way on their land. We all must understand this. OK?

Mr HATTON: I will tell you some of the things that have been talked about in here. They apply for Aboriginal people and non-Aboriginal people, everybody. When we talk about this, we must think about things for ourselves and for other people. You must think about things that are important for you as Aboriginal people, as Northern Territory people and, as well, for the non-Aboriginal people. When I go into Darwin or Alice Springs, I say to people there that they must think about the needs of Aboriginal people as well as their own needs. To make this constitution, we must all start thinking for everybody. Otherwise, it will not work. We have to think very carefully for everybody.

The book talks about things like land rights. One question is: should land rights be protected in the constitution so that the government cannot change them or take them away? Another question is: should there be parts of the constitution which protect Aboriginal culture, languages, customs and religion so that the the government cannot muck them up?

Mr BRISCOE: Uwa. Wangka palunya nyura kulinu kuwari nyanga wangka alatji wangkangi. Panya nganampa wai panya nganana kulilpai anangungku wangkatja iritinguru, kulilpai nyanga alatjikula mukuringanyi law nyangaku, nyangakula mukuringanyi. Kampa kutjupankuntjaku wiya tjukaruru ngarantjaku. Government might nganananya kulintjaku. Palunya tjananya nganana wangkapai kuranyungku. Ka pipa nyanga palunya tjananya tjunu nganana nyakula kulintjaku, yaaltji yaaltji nganana runamilalku nganampanya. nganampa warka, nganampa cultureku. Tjanampa cultureku kutjara kampa kutjara kulintjaku, nganana kulintjaku tjana ngapartji kulitnjaku, nganan ngapartji kulintjaku. Alatji nyanga palya.

OK. You all hear what he said. This is what he said. We all know our tribal law and we would like that to remain in the book without any adjustments. The government has to listen to us. They must understand our tribal law and put our law in the book. Also they have to listen to us when we tell them about how we want to run our work and our culture. They must listen to us. Also we must listen to them in return. Like that, OK?

Mr HATTON: Those are the sort of things you can talk about here. You can also talk about other things, such as how the parliament should be set up. How do you elect people to the parliament?

Mr BRISCOE: Uwa. Nyanga palunya wangkanyi. Panya nganana kulilpai yaaltji yaaltji nganana kanyilku. Government kutjupangka tjinguru kampa kutjupa government kutjupa ngaranya, government kutjupa kampa kutjupa. Ka nganana kulintjaku nyaa panya election day panya nyaa panya yaaltji yaaltji nganana votariku. Palumpa tjanampa wangkantjaku, nyanga palunya nganan kulintjaku, tjarurungku kanyintjaku wangka wirura. Panya kulintjaku yaaltji yaaltji ngaranya nyangarja. Alatji nyanga kulintjaku.

OK. What is he saying is, 'How are we going to keep out law in this book?' Other government are not like our government. So when we all vote in the

elections we have to think carefully before we do, so that our ways are kept and looked after properly. This is what we must understand.

Mr HATTON: We have to think about a lot of questions. It is not going to be quick and it is not just going to be a case of coming in one day and going the next day and having everything done. It is going to take a long time and we all must be part of this because, in the end, the constitution is the people's law. It has to come from the people.

We are going around now talking to people, telling them that this is starting to happen, and asking them to think about things and talk about things in their communities, so that they can get their ideas clear. If people have questions or need more information, they can write to us or ring us up. Towards the end of this year, we are going to come back. When we do that, we will spend a lot more time with you so that you can tell us what you are thinking, what you think should go or must go into the constitution, and what you think should not go into it. We are doing this throughout the Northern Territory.

When we have finished this, our committee will take all the views and will write out the first draft of a constitution. After that, we will ask you a second question, because this constitution does not come from the politicians but from the people.

Mr BRISCOE: Uwa. Kuwari paluru watjaningi ngura wangka kuliningi. Panya wangka kulilpai tjutangu. Palu yuntjuna wangkanyi anangu somepalangu kulilpai kulintjaku nyanga. Paluru panya watjaningi yaaltji yaaltji ngananan kanyintjaku, palu tjanan ngatjiringanyi pipa book nyangaku. Panya nganananya wangka ungangi. Ka nganan kulira wangkantjaku wangkantjaku kulira nyakula panya watjantjaku. Alatji, alatjikula mukuringanyi nganana anangu nganampa kanyilkitja nguraku. Ngurakula wangkantjaku, ngura nganampa law yaaltji yaaltji runamilantjaku alatji palunya. Tjana tjunanyi ka nganana kulira uwankara panya wangkara, kulira strong kutu nyinantjaku. Wiya wantiriantjaku uwankarangu kulintjaku, supportamilantjaku nganananya. Ka nganana panya kulira unganyi alatji palunya.

OK. He was just saying what most of you understood before. I am repeating what he said because some of you wouldn't have understood what was said. He said, 'How are we going to keep it?' They are asking us for our advice for their book. We must tell them our views on this book. Also, how we would like to keep our land. We must speak up now for our land, so that we can go on being in control and speaking strongly for our land. We must not forget about this. Everyone must think hard and support each other. Then we can give the government our answer like this.

Mr HATTON: As I said, we are not going to let the politicians write this one. What we are going to ask you next is to think about how we can get people together from all over the Northern Territory in what is called a constitutional convention - a meeting of representatives of people all over the Northern Territory, who will sit down and write out what they think from our work. The people on that convention will take these books, what you tell us and what we suggest and they will

look through it and prepare the document. They will prepare the constitution and look at it and, when they all agree, they will then put it to all the people. That is stage 2.

Stage 1 is the draft constitution written by our committee. Stage 2 is the convention, the meeting of all the representatives who talk about the draft and say: 'Yes we like this, no we don't like that. This is what we think it should be'. It goes back for all the people to vote on. If the people say no, we start again and we keep going until we get it right, until everybody agrees.

Mr BRISCOE: Uwa. Paluru panya wtajaningi panya like. Panya anangu tjuta ananyi miningiku panya uwankara kutjunkaringkula, mitingi kulini wangka palunya. Nganana panya kutjunkturipai mitingi wangkantjikitja. Kala kulilpai alatji alatjikula mukuringanyi anangu tjutaku nyaanka panya communityngka kanyintjaku. Kala tjapira kulilpai ara palunya, ara pungkula kulilpai, ka walpalangku tjana nganananya wangka ungkupai kala kulira papa wangkapai communityngka. Wangka nyanga palunya tjananya. Ka nyanga palunya ngaranya alatji tjana ngatjiringanyi nganana kuliltjaku. Warka pulka nyanga palu, warka kampa kutjupa, kutjupa wangkantjaku. Panya like nganampa ngura nganampa ngura look aftermilantjaku, tjunguringkula wangka alatji wangkantjaku. Like panya nganana iriti, iriti nganananya kulilpai tjamulu tjanan ara pungkula kulilpai, yaaltjila kanyilku. ka tjana, tjanampa wai ngarapai, tjanampa aie kanyilpai alatji palunya, walpalungku ngapartji palunya kanyini. Nganampa wai, nganana palunya purinypa tjunkuntjaku palunya ngaranya.

OK. He just said that all the people should get together for a meeting. When we get together for a meeting to talk and decide on things, maybe on how we want to run our community, we discuss things among ourselves before we make a decision. When European people ask us to do or think about something we always talk about it among ourselves first in the community.

So these people here that are talking to us are asking us for our view on this book. Their work is very big and important. Also the book talks about many, many different things like how we should look after our land. This is what we will be getting together to talk about later, just like our grandfathers used to discuss things in the old days. That was their way of deciding on things and that is also the way of these people who are talking to us now.

We must talk about things in this way too, so we can put our things in the book.

Mr HATTON: That is how we are going to go about doing it. All we are doing now is taking a first step on the walk down this road. We are coming to you saying: now is the time for you to really start to think about these things and to talk about them as a community, including the people who live on outstations. Think about these things. Come to understand these things and say what you really think should go into the constitution. I cannot say strongly enough that this is going to be the most important thing that will have ever happened in the Northern Territory. It will shape the Northern Territory into the next century.

Mr BRISCOE: Uwa. Wangka palunya nyrua kulinu palumpa wangka, panya kuwari panya paluru watjanu. ka ngayulu yuntjungku watjani wangka ngayuku kuliltjaku. Panya paluru watjanu

ara pungkula watjaningi wangka panya palunyatu. Ka ngayulu wangka panya palunyatu watjani nganan kulintjaku. Yaaltji yaaltji nganana ara pungkula kulintjaku, tjukarurura kanyintjaku pipanguru, nyanga alatji alatji wangka ngaranya ka nganana wangkani. Ka palu tjana ngapartji ngananya wangka kulintjaku, ka nganan pipangka tjunanyi. Ka palu tjana nyanganyitu ngapartji, ngpartji tjana kulintjaku. Palya?

OK. You heard all this before. What he said before he is saying again. I'll say what he said, just for the sake of saying it, also for some people to hear what he said. He was saying that people should discuss for a while before they decide on things. I am asking you people how will we discuss things in order to make the right decisions to look after us in the book. We might say this is how it was in the old days and that is the way we want to keep it. They must listen to what we have to say so that we can put our views in the book for them to see. We must do things in return for each other.

Mr HATTON: If we do this right, our grandchildren will look back on us and be proud of what we did. If we do not do it or we do not do it properly, they will look back and ask why we did not do it.

Mr BRISCOE: Uwa. Panya wangka nyanga paluru, paluru panya kuranyu watjaningi. Panya ngayulu wangkapai irititjanguru mitingi nyangangka. Ka wangka nyanga palunya paluru wangkanyi. Nganana panya wangkapai alatji alatji nganana kanyintjaku, malatja tjutangku might pulkaringkula tjana ngapartji tjinguru nganampa wai kanyilku. Palu wiyangka tjinguru nganana wiya palunya nintintja wiyangka, uwankara nganana losemilalku. Nganampa culture palu nganana might tjukarurungku, wangka nyanga palunya ngayulu watjalpai kuranyungku, ka nganan kulintjaku yaaltji yaaltji nganan kanyilku. Nganana pipangka tjunkuntjaku ka tjana nyanganyitu mumu nyakula nitniringanyi munta, yaaltji yaaltji anangu tjuta nyinanyi.

OK. He is still repeating what he said earlier on in the meeting, which I have been interpreting for people to understand. This is what we have always said so we hope that the young ones will also do what we do. If we don't teach the young ones what to do then we will lose our culture. So, as I was saying before, how will we keep our things and what will we put in the book so that European people can see it and understand how we live?

Mr HATTON: Wesley, do you want to make any extra comments?

Mr LANHUPUY: Thanks, Steve. Steve has explained to you mob what we are doing with this paper and this committee, which is asking both black and white people to make sure that they say something about things that will affect us in years to come. As he said, this committee is going around visiting communities throughout the Northern Territory and saying to them that, one of these days, we will have a book like this for both black and white that will affect us. We are asking

people now to sit down and to think and talk about the issues because this committee will come back again and talk to you people.

Mr BRISCOE: Uwa, paluru watjaningi wangka palunyatu. nganana kulinu kuwari nyanga. Wangka palunyatu tjilpilu kuwari watjaningi Ka paluru ngapartji wangka palunyatu watjani. Nganana yaaltji yaaltji kanyilku, nganana kulintjaku, ngapartji nganana kulintjaku. nganan ngura nyangatja yaaltji yaaltji kanyilku. Palunya nganana wangkantja wiyangka, wangka nganampa nyaaringkuku palulatara, palulatara nganana kulintjaku pulkara panya kulintjaku. Pipangka tjana tjunanyi he might wangka nganampa kulu tjunkuntjaku wangka nganampa kulu. And yaaltji yaaltji wangka ngura nyanganguru Ka tjana Kulini. Nyanga altaji nyinantjaku nganana mukuringanyi tjana kulintjaku.

OK. He is again repeating what we have heard before. He is again repeating what was said before by Steve Hatton. He is asking us how we will keep things; things like our home. We must think about these things, because if we don't listen to them in return then our views will not be listened to. The won't take notice of our views. That is why we must understand fully what they are talking about. In the book they might put our views in it, also our views of the country. This is how we would like to live, so they must understand us and our ways.

Mr LANHUPUY: It is important from the Aboriginal point of view that we make sure that this paper which the Territory people come up with has got our voice in it. In that book we can make sure that our rights and interests are protected for our children, our land and our culture. That is why it is important for Aboriginal people throughout the Northern Territory to make sure that they look at this book and talk amongst themselves.

If you have any questions or need information, you can write to this committee and it will send someone out here. We might come out again and talk to you mob. It is important. We do not want to be left alone in the Northern Territory. If you do not talk about it, people might put in things that you mob do not want. That is why it is important that you talk about it and put your views.

Mr BRISCOE: Uwa, paluru panya watjaningi kuwari wangka palunyatu nganana kulintjaku. Panya nganan yaaltji yaaltji kanyilku. Ka nganana kulintaku nganana yaaltji yaaltji wangkaku nganampa lawngka. Panya kulira panya nganampa way panya nyinantjakitja mukuringanyi. Nganampa way kuulangka kanyintjakitja mukuringanyi nyanga palunya tjana. Kanyintjakitja mukuringanyi nyanga palumpa tjanampa kulira panya. Tjana kulira panya bookangka tjunanyi, ka tjana kulini munta nyanga alatji anangu tjuta nyanganmpa strong wangkanyi. Ka palu tjana kulirampa nganana lipulangkulta nyinanyi. Palu wiyangka tjinguru nganana lamangka tjana wangkanyi wiya nyurampa putu nyura kulini, ka palumpa tjanampalta tjana katinyi titutjarakulta. Ka nganana kulintaku munu kulira nintiringkula wanatjaku tjananya.

OK. Again he is repeating what he said before so that we can hear it. He is asking us how we will keep things. We must think about all our law and how we will

talk about our law, so that we can live following our laws and ways; to teach in the school how we want to. To be in control of these things, we must understand this.

They will put our views in the book and when they have read the book they will know that we Aboriginal people are talking strongly. When they understand us then we will all be equal and all live together. If we don't talk now then they will say, 'No you people don't understand at all.' Then they will only put all their views then take it like that forever with nothing from us. We must understand what they are on about so that we will know what they are talking about in order to follow them.

Mr LANHUPUY: As Steve said, this is just the first part of our meetings. There will be a second time, where we will get people from the Northern Territory representing women, Aboriginal people, miners and pastoral people to a big conference in Darwin. Those people will decide what sort of law we should have and when that is done it will go back to the people to vote on at a referendum. If the Territory people say no, this committee will hopefully start again to make sure we get a book that all of us agree on.

It is not fair if only one side of the community says that the book is all right. It is important that we all agree with the final book that comes out because it will affect us, our children and our children's children for years to come. The parliament will not be able to change that book by an act of parliament. That book will have to go back to the people of the Territory if they want any changes in it. That is important. The parliament will have no power to scrap this book. It will be the law of the people of the Territory and that is why it is important for us to put our views.

Mr BRISCOE: Uwa, nyurangari kulinu wangka palunya panya kuwari wangka palunyatu panya watjaningi. Paluru panya kampa kutjupanangi palutjana, nganan kulintjaku. Wangka nganampa nganana kulilpai irititja nganana kulilpai kampa kutjara. Kamurulu tjana yaaltji watjaningi, mamalu tjana, kamurulu tjana nganananya watjalpai kulintjaku. Ka palu tjana kuwari pipangka nganampa ngaranya wangka nganana unganyi, ka tjana pipangka tjunanyi. Pipangka tjana tjunkula tjana nyanganyi munta anangu tjuta tjana nyanga alatji iriti nyinanti way. Ka nganana kulintaku kuwari pipa nyangangka tjana tjunanyi ngura winkiku. Ka ngananana kulintaku alatji alatji nganana wangkanyi nganampa. Tjana kulintaku tjana ngapartji kulintaku, nganana ngapartji kulintaku, nganana wirura nyinatjaku. Kulini?

Yes, you all heard what he is saying again. He is saying what he said before. He is saying the same thing as before but saying it a different way from before so that we can hear it. A long time ago we used to hear and follow two ways, the way that was taught to us from our uncles, our fathers. They told us things so that we would understand them and follow the way of our uncles and fathers.

So now it is up to us to tell these people our laws and views so that they can be put in the book. When our views and laws are in the book then they will know, by reading the book, how we used to live a long time ago and our ways.

We must understand now that what they put in the book will be for all the communities. We must understand the things that we are talking about. They must understand what we are talking about. Also we must understand them in return in order to live together peacefully. Understand?

Mr LANHUPUY: I stress again that it is important to talk about these ideas. We can always come back and exchange views and ideas with you mob. We do not know when it is going to happen. It might happen in 2years, 3years or 10 years but, as long as the people of the Territory are happy with that book, it will become law. We can always come back and visit you mob again next time.

Mr BRISCOE: Uwa, wangka palunyatu paluru watjanu. Ngayulu panya kuwari watjanu nganampa panya nganana panya yaaltji nyakuntjaku book tjunkuntjaku wangkaku. Wangka tjanampanguru kulira nyanga palunya panya, nganampa malatja tjutaku.

Iritja tjuta yaaltji yaaltji nyinangi law nganampangka palu tjananya wangka nganana kulira tjunkuntjaku. Ka malatja tjutangu nyakutjaku, nyakula nintiringkuntjaku, nyanga alatji tjana kanyiningi pipa nyanga palulanguru. Tjana nyakula wanani nganananya munta alatjiya nyinangi ngura tjanampangka, anukupai ngura kukaku kulu para ngarapai. Ka nganana tjananya kuwari nintintjaku strong nganana nyinatjaku, strong nganana kanyintjaki ngura nganampa. Alatji palu tjananya tjunanyi. Yaaltji yaaltji nganana nyinaku, juwari tjanan manta nyangatja kampa kutupananyi ka new lifenguwanpa nyinanyi. Ka nganana kulintaku uwankarangku mumu wirura kanyintjaku wanantjaku. Ngapartji ngapartji nganan kulintjaku. Palya?

Yes, he is again repeating what he and I have been saying before, about how we will talk and get this book together.

From listening to what they are saying we will put our laws and views in the book, so that our young ones can know how the old ones lived before. The young people will learn about how the old people lived by reading the book.

The young people will know how the old people lived doing things like hunting for animals on their land. It is up to us elders now to teach the young people of our ways and law so that they too can be strong and be able to look after our land just like us.

Soon there will be change to the Northern Territory law so it will be like a new life. How are we going to live? We all of us must understand the changes and follow the new way. We must share two ways of living. OK?

Mr HATTON: Thank you. I would ask Mr Setter if he wants to make any comments.

Mr SETTER: Thanks, Chairman Steve. I think it is very important to understand why we need a constitution. Until now, the Northern Territory has had an unusual relationship with the Commonwealth. Let me explain it this way. Imagine that you have a family and the Commonwealth government is the parent. Until 10 years ago, our relationship with the Commonwealth or our parent

was like that of a small child. This parent told us what to do all the time. When we achieved self-government 10 years ago, we grew up and became like a teenager. We now have our own parliament with 25 members and we pass laws that control a lot of things that happen in the Northern Territory. However, we do not yet have the full powers that the states have, so we are like a teenager in our relationship with the Commonwealth, our parent, and the next move is for us to become a fully mature adult.

Mr BRISCOE: Uwa, wangka palunya panya watjaningi nyura kuliningi kuwari nyanga. Like panya paluru watjaningi irititjanguru paluy tjana yaaltji yaaltji nyinangi Darwin panya NT Government nyinangi nyaranguru. Ka nganana kulilpai palu tjana yaaltji yaaltji kanyilku ngura nyangatja. Palu tjana ngura iritinguru tjataringu kuranyu panya tjanampa way kanyintjakitja ngalya tjarpakitja tjana mukuringanyi. Munu ngura nyangatja palyantjakitja ka nganana kulintaku irititja nganana kanyiningi. Ka palu tjanan kanyira, kanyira, kanyira kanyira tjunguntjakitja tjana mukuringanyi ngura nyangatja nyaa kutjulkitja. Tjana kulini ngura kutjupa tjuta panya uwankara kutjuringangi tjana ka tjana mukuringanyi ngura nyangaku nyanga. Ka nganana kulintjaku nganana yaaltji yaaltji kanyilku tjanalawana wangka tjanalaawana. Tjanan ngapartji nganananya kulintaku kulintaku munta nyanga alatji anangu tjuta mukuringanyi. Ka nganana ngapartji kulintaku walypala tjuta yaaltji yaaltji mukuringanyi tjana ngananalawant nyinantjakitja. Nganana ngapartji yaaltji yaaltji kanyilku pipa panya book tjana palyanu ngangatja nyanga. Ka nganana kulintaku, nyalkula nganana tjananya helpmilantjaku, answermilangjaku, tjungurikula wangka kulintjaku tjanalawana, wangka kulintaku munu wanantaku.

Yes is is again repeating what we had before this; like how they live and work in Darwin as the Northern Territory government.

We also think about how they are going to look after our lands. A long time ago they started their own law. But now they want to come in with us and help us to keep our lands. But we must not rush in and let them come in and take over. We must think about our laws very hard. They want to come in and make our lands as one with all their lands. They have been thinking about joining all the lands together and now they would like this land also. We must work out how we are going to keep this land together by following what they say. They in return, must listen to what we would like to see happening and we, in return, must listen to what they have to say about joining and living with us.

How will we, in return think of their book? We must try and understand their book that they made. We must help them by answering their questions and getting together to talk with them and understanding and following them.

Mr SETTER: A very important part of growing up from a teenager to an adult is that we must develop our own constitution in the Northern Territory. You need to understand that the Commonwealth government and each state of the government has had its own constitution for a long time. Here in the Northern Territory, we do not have a constitution.

Mr BRISCOE: Uwa, kulini nyura kuwari nyanga wangka palunya, WAngka palumpa wangkantjikitjanga. Ka wangka palunyatu wangka kutju palunyatula nganana wangkanyi. Paluru panya wangkangi panya alatji kanyintjikitja tjanalanguru kulira ngananala kutu katinyi ka nganana kulini. Nganana wangkayi alatjiku nganana mukuringanyi ngura nyangatja kanyintjikitja. Nganan nyangangka munu ngura wingkingka tjana kulini Northern Territoryngka, panya anangu kutjupa tjutangku kulini tjana yaaltji yaltji kanyilku. Ka tjana ngatjiringanyi, nganana ngatjiringanyi ngarpartji, ngpartji. Wirura nganana kanyintjaku. Malatja tjuta tjana pulkaringanyi ka nganana kulintaku.

Yes, you are all listening to his talk which he has said before. He is still talking about the one thing that we have talked about earlier on.

They are saying that they want us to listen to their things that's why they are here bringing things to us and talking about them with us. We will then tell them how we would like to care for our land. We have to think about how we will care for our lands. Also the other Aboriginal people in other communities in the Northern Territory must decide on how they also will care for their lands. These people here are asking for our help and advice so that we all can look after the land, so that everybody is looked after properly. Our young ones are just growing up, so we must not forget about them.

Mr SETTER: It would be possible for our committee to write a constitution because we have already studied all of the other constitutions of the Commonwealth and the states, and from our study of those we have produced that thick green book. The smaller book, of course, is a precis of that.

It is a long time, however, since anybody wrote a constitution in this country. It has not happened for about 100 years and times have changed, so the constitution that we write for the Northern Territory now will by necessity be different to other constitutions. We want the people to have an input. We want to seek your views. We want to address all the needs of a modern society and a modern community and write a constitution that is applicable to the Northern Territory today, not one that was applicable to other states 100 years ago.

Mr BRISCOE: Uwa, wangka palunyatu palu tjana wangkanyi. Ka ngayulu palunyatu watjani kulintaku. Yaaltji yaaltji palutjana panya community panya tjana tjamilanu. Munu palu tjana mukuringanyi, tjana tjanampa runamilantjaku pulkantjikitja tjana mukuringanyi. Ngananala tjungura ngananala tjungu nyinatjaku. Alatji palu tjana ngatjiringanyi yaaltji yaaltji ka anangu tjutangku kulintaku munu tjarpantjaku uu kampa kutjupa nyinatjaku. Nyaa panya book greena nyanga tjana palyanu nganana nyakuntjaku, wangka uwankara nyanga palula ngarinyi. Nyagnana nyalkula mitingi palya nyakuku, nyakula panya kulintaku.

Munta nyanga alatji ngaranyi nyangakula mukuringkuntja wiya. Alatji palu tjananya nganana kulintaku. Kulira, kulira panya nganana like ara panya nganana kililpai palunyanguwampa nganan kulintaku. Kuliralta watjani. Nyanga alatjikula mukuringanyi. Wangka palunyatu.

Yes, again they are repeating what they have said before for us to hear.

They are telling us about how they started their community and they would like to make their community big so that they can run it. Also they want to include us in their community. That is what they are asking us for. So we must join them or live our own way. They made this green book so that everybody could read it, in this book it talks about many different things. We must at a community meeting decide what we like or dislike about what is in the book. They must listen to what we have to say about the book.

Mr HATTON: We have talked enough now. Would anybody like to ask questions? If you would like us to explain a bit more, please ask us now about what we have said.

Mr BRISCOE: Uwa, palu tjana mukuringanyi nyurala ngapartji ngatjiritjikitja yaaltji yaaltji palu tjana wangkangi. How panya kulira panya ngalya wangkantjaku palunya tjapintjaku, kuntaringkuntja wiyangku watjantjaku. Uu wangka nyanganku wangkanyangka ngayulu antjarmilara wangkanyi palunya, wangkantjaku uu ingilitjingka mukuringanyi kutjupa wangkantjaku, paluru wngkantjaku. Tjapintjaku palunya ngatjiringkula tjapintjku watjantjku. Yaaltji yaaltji nyangatja ngaranyi, nyura yaaltji yaaltji ngaranyi, alatji tjapintjaku ngaranyi kulintaku. Palya?

Yes, now they would like to ask you all what you think about what they have been saying. So, without getting shy, just tell him what you people are thinking. When he asks a question I will ask you people, or some of you might want to ask the questions in English.

You people should ask him why they are doing what they are doing or where they stand in all this business. OK, that is what you should ask them. OK?

Mr HATTON: No questions? It cannot be that good.

We will leave some books here and we will also drop some into the school and the council office. Please take the chance to think and talk about the issues. If you are not sure of anything, ring us up at any time or write to the committee. Its address is in the book. Tell us what you think and ask questions. If you need someone to come down and talk about something, let us know so we can organise a time for that to happen. It is really important that you start to think about it and find out about it. The work is going to happen and it is really important for you to make sure that what you want goes into that book.

Mr DOOLAN: What about we wait for when we have a community meeting wangkara, wangkara so we can straighten things out. Next time when they come we will be all ready to talk to them.

What about we wait for when we have a community meeting, where we can discuss this in more detail so we can straighten things out. Then next time when

they come. We will know what we want to talk to them about, so we can tell them straight away.

Mr HATTON: That is good.

Mr BRISCOE: Uwa, wangkantjaku ngaranyi panya tjapintjaku ngaranyi, tjapira kulintaku. Yaaltji yaaljti nyangatja ngarany, palu tjana mukuringanyi nyuralawana ngarjirintjikitja. Palu wiyaringanyi tjinguru palya.

Yes it is for you now to ask them anything so that you can understand what this is all about, because they are asking us for our views.

If no one has anything to ask, then we will finish this meeting. OK?

Mr HATTON: Thank you very much.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

AREYONGA — Friday 7 April 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 Arthur SWAN
Unidentified Aboriginals

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

Mr HATTON: Thank you for coming along to this meeting. My name is Steve Hatton and I am the chairman of a committee of the Legislative Assembly which is called the Select Committee on Constitutional Development. As you can see, inside the back cover of the book are pictures of all the people on our committee. There are 3 people from the CLP and 3 people from the Labor Party, so there is equal representation from both sides. Mr Setter and Mr Lanhupuy are both members of the committee. We are all members of the Northern Territory parliament and our job is to visit all the communities to start work on preparing a constitution for the Northern Territory.

Later, I will try to explain what a constitution is about. I want to say one thing first. You have heard a lot of talk about statehood, whether the Northern Territory should become a state like Western Australia, Queensland or South Australia. Some people think that is a good idea and some people are not very happy with that. We are not asking you whether we should become a state, or whether it should happen sooner or later. That is another question.

Before you can even think about whether you want to become a state or not, you have to work out what sort of rules and laws you want for the Northern Territory. What sort of laws do the people want? What sort of laws do you want to make for us, the government and politicians? What sort of laws do you want to protect your rights and to give rights to everybody in the Northern Territory? Those things are part of a special law, a law that governments cannot change, a law that can only be changed if all the people want to change it. It is the way the people control politicians. Without this law, governments and politicians can do just about whatever they like. This law is the law which the people can use to say that there are some things that they do not want the government to do. You might not want the government to be able to touch your land rights or to take away your right to vote. You do that by writing the law into what we call a constitution. It is very much the people's law. It is a law that is there forever. It is not a law that chops and changes like so many of the white man's laws do. It stays and governments cannot touch it. The only way of changing it is by a vote of all the people, which makes it a very strong law.

All the states of Australia have their own constitutions. In the Northern Territory, we do not have one. We do not have those rights and controls. Australia also has a constitution. You may remember that, last year, you were asked to vote on 4 questions to change the Australian constitution, in what is called a referendum. The government wanted to do something but it had to ask the people. The people said no and the government could not make the change. It would be the same with that sort of law in the Northern Territory.

Our job is to start to work towards the writing of that law and to get the people to start to think about it, to talk amongst themselves and to come up with their ideas of what they want, what things are important to protect and how they want it to be for their children and their children's children. What sort of place do we want this Northern Territory to be? How we are going to make this place so that we can all live together with respect in the one place and make it a good place for our children? Those are the sorts of questions you have to think about when you talk about a constitution.

We are going about doing this, firstly, by visiting places and saying: 'Look, this is happening'. We have this book to give out and we have other things which will give people some idea of what goes into a constitution and some of the sort of questions that are asked. The book is like a starters kit. We made it up to help people to start to think about the issues after we spend

3 years working on the big book. During those 3 years, we looked all around the world. We looked at constitutions in all the states of Australia, in America, New Zealand, the West Indies, Canada, Africa and so on, getting a range of different ideas. There are some things here that we agree with and some things here that we do not like. There will be things in here that you will think are good and things in here that you might think are bad. We have put them all down there so that you can look at the whole lot and say that you like this or do not like that. You might want to say to us: 'You forgot something that should be in there, something which is also right'. We are starting from the beginning now, and the book is to help you think about it. It is up to the people to think about it, to come back and say: 'This is the book we want'. We will take that and we will write up what we think the people want.

The second thing that we want to do is to ask you to help us come up with ideas to put together what they call a constitutional convention. This is like a big committee of representatives of people from all over the Northern Territory who come together. They pick up the book that we did and they have a look at it and they say yes they like this or no they do not like that and they talk about it again. From that, they work out what they think should be the constitution. So it is really important that we get the right people on that committee or convention. It is important for you to think about how you will make sure that your views will be represented at those meetings so that they result in what you think and what we all think is a good book, a good law. After that, all the people will vote to say whether they want that law or not. If the people vote no then we start talking again. We will keep working until we get it right, when all the people say yes. We cannot say yes or no. Only you can do that.

It is our job to help you start to work towards this. As I said, this law is a law that you make and only you can ever change. It is a way of protecting the rights of all people in the Northern Territory. You can even say how big the parliament should be, what the courts can do, what the judges can do. You do that through this law which says what we can do and cannot do. That is how our democracy works.

After you have done all that, maybe you might then think yes or no for statehood. You have to do this first, before you can even think about the other thing. I ask you, please, to recognise that, whether it happens in 1 year, 5 years, 10 years or 20 years, statehood will happen one day. The Northern Territory will become a state one day. If we take our time now, and think and talk things through properly throughout the Northern Territory, we will be starting to work towards making it the sort of place we can be proud of, so that our grandchildren will look back and say that we did a good thing for them. If we do not do this, our grandchildren will look back and say: 'Why did they not do that for us? We must do it now to make the future for our children and their children. That is our job.

Wesley, do you want to add anything?

Mr LANHUPUY: Thank you, Steve. I will only be brief.

We hope that the paper we have given out to you this morning will start making you think about what sort of Northern Territory you want, what sort of laws you want, how many people you think should vote for the politicians, what the law system should be like, whether the Administrator should be appointed by the people or the Governor-General of Australia, and so on. They are the

sorts of things that we hope people will start to talk about. It is also important, from the Aboriginal point of view, that you come and talk to this committee and tell us what you want in relation to your land rights.

At the moment our land rights law is just an act of parliament. That politician mob in parliament can make law and just wipe it out. If you want land rights and they are put into this constitution, the politicians do not have the power to take them away. The people of the Northern Territory have the power to vote on such things with the answer of yes or no. Into this law you can put bilingual programs, Aboriginal education, customs and our religion. That is how important it is for Aboriginal people throughout the Northern Territory to make sure that you talk about this paper and let this committee know what you think.

We are not only visiting Aboriginal communities. We are visiting major towns like Nhulunbuy, Groote Eylandt, Alice Springs, Darwin, Jabiru and Tennant Creek. We are talking about this paper to a lot of people because this committee believes that statehood will happen one of these days for us in the Northern Territory. Steve has already told you how this will happen. This committee has no time frame for when this paper should be made into law. It is up to the people of the Northern Territory to talk about it and think about it. Let us know if you want us to come back and talk to you more about it. We can do that. We do not have a set time.

It is important that people throughout the Northern Territory talk about it so that this law will be a law made by the people and will be something we can all agree on. We can always come back and talk to you further about it but I again stress the importance of making sure that our interests are represented to this committee and to the government. It will benefit our children and our children's children. That is how important this paper is and that is why we are going around to talk about it. We are asking everyone to read the booklet and talk to us about the issues. It is important. We want you people to start talking about it. We can always come back and talk more about it later this year. That is what we are saying to all communities. We do not want you to rush. You make that decision whether you want us to come back. It is up to you but, once again, it is important for our children's children that we Aboriginal people put our views in this law. If we do not, this law will not be a good law for the Northern Territory. That is why it is important for us mob to start talking about it.

Mr HATTON: Thanks, Wes. Do you want to add anything, Rick?

Mr SETTER: Thanks, Chairman Steve. I think it is important, when one talks about a constitution, to understand the structure of government in Australia. First of all, you have the Australian government, which looks after the whole of the country. Then you have 6 state governments, each of which looks after its own state - that is, Queensland, New South Wales, Victoria, Tasmania, South Australia and Western Australia. In addition, there is the Northern Territory. The Commonwealth and each of the states has its own constitution. They have all had constitutions for over 100 years.

The Northern Territory is like a child. We are growing up but we have not yet become an adult yet. Before we can become an adult, it is very important that we have our own constitution just like the other states. That constitution would be like the Bible. It is the book, the rules by which we run our lives and our government.

It would be quite a simple matter for our committee to sit down and write a constitution for the Northern Territory. We could look at all the old constitutions from the states, the Commonwealth and other places, as Steve said earlier, and we could write a constitution quite easily. We believe, however, that because those constitutions were written 100 years ago, they are not really appropriate to today's society. We believe that the best way to write our constitution is to go out and talk to everybody - Aboriginal people, non-Aboriginal people and everybody throughout the community.

On these trips, we are talking to about 59 Aboriginal communities and white communities throughout the Northern Territory. You can see that we are taking a lot of effort to talk to as many people as we can. Of course, this is the first visit here and we are showing you this book. We will leave other books with you so that you can read them and discuss them in your community council meetings. We will come back at a later time, maybe late this year or early next year, and we will sit down and have a lengthy discussion with you and seek your views.

As Wesley said, it is very important for the committee to take into consideration the views of Aboriginal people, because Aboriginal people make up almost 25% of the population of the Northern Territory. There is nothing in the constitutions of the Commonwealth government or the state governments which addresses issues such as land rights or sacred sites or other issues that are important to Aboriginal people. There is nothing in those constitutions for Aboriginal people. We believe it is important, in our constitution, to write in things that protect the rights of Aboriginal people. You see, our constitution will be different to everybody else's. That is why it is so important that we come out and talk to you and seek your views.

Mr HATTON: Thank you, Rick. We have talked a bit ourselves. I do not know whether there is much more that we can say. It might be better if you ask questions now. Do people understand what we are trying to do?

SEVERAL UNIDENTIFIED PERSONS speak in an Aboriginal language.

Mr HATTON: We have talked about what we are going to be doing. We would like to ask you if, as a community, you can start to meet and talk about this amongst yourselves, and to think about the different things that are in these books. We would like you to come up with what your community thinks so that later during this year, maybe in October or November, we can come back and you can then tell us what you think rather than us telling you what we are trying to do. You have time to think about these things and to talk about them as a community. It is not a big rush thing. It is important that we all think it through carefully. Could I ask you to do that because, as Wesley and Rick have said, it is really important that you have your say. The Aboriginal people and the white people must have their say.

It is very important, when we think about this, that we do not just think for ourselves but for other people too. When I go into Darwin or Alice Springs, I tell people there that, in thinking about this constitution, they have to think about Aboriginal people and their rights. I also tell people in Aboriginal communities like this one that they should think about their own rights but also about those of other people, so that we can bring the whole thing together and make this Northern Territory a place where we can all come together in the future. That is what we are working towards. This is the first very small step on a long road that we must go down together.

There is one more thing. If, at any time, you do not understand something in relation to this issue, please ring us up, write to us or tell us to visit you or to send somebody out to talk to you. You can also contact Neil Bell, your member of the Legislative Assembly, and ask him to come out and talk to you about it. We will give you whatever information you want. We will come and talk to you if you want us to talk about one thing or lots of things to help that process. I really hope that you will get involved in it. Thank you very much.

Mr SWAN: We want to know what ... (inaudible). .

Mr HATTON: If you don't like it? We do not ask you to say no or yes today at all. We just want you to have a think about it.

Mr SWAN: (inaudible).

Mr HATTON: We want you to do that. It is important that you do that. Later this year we will come back.

Mr SWAN: People have time to look at that booklet ...

Mr HATTON: That is right. You talk it all through. Later this year, in October or maybe November, we will come back and we will sit down so that you can tell us what you think.

Mr SWAN: Thank you.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

HERMANNSBURG — Friday 7 April 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 Gus WILLIAMS
Mr Alan KEELING
Mr David CAMERON
Mr Helmut PARAROELTJA
Unidentified Aboriginals

NOTE:

This is a verbatim transcript that has been tape-checked. However, due to poor

recording or many people speaking at the same time, some of the recordings were inaudible and unable to be transcribed.

Mr WILLIAMS: I welcome members of the committee of the constitutional development mob. I will introduce one person first, the former Chief Minister, Steve Hatton. I welcome him and the other members of the committee.

Mr HATTON: Thanks very much, Gus. It is a great pleasure to come back here again. I am sorry that I was not able to attend the opening of the historical precinct late last year. I lost my job in the meantime and I could not get back. I have had a chance to look around this afternoon and it is looking good although there is obviously still a lot of work to do. I am sure it will come on.

Our committee is called the Select Committee on Constitutional Development. There is a fly leaf at the back of the book which has pictures of all committee members. There are 6 members, 3 of whom are here today. As well as myself as chairman, Mr Rick Setter, the member for Jingili, and Mr Wesley Lanhupuy, the member for Arnhem, are attending.

The committee is a committee of the Northern Territory Legislative Assembly. It is not a government committee but a parliamentary committee. It has 3 members of the CLP, including myself, and 3 members of the ALP. This is one of the times when we are not fighting each other about something. Both of the political parties are in agreement about the work of this committee. We will not be fighting elections over it. We are simply working on a task which both parties believe in.

When I came here as Chief Minister in 1986, together with Terry Smith the Leader of the Opposition, we were talking about statehood and what statehood means. Some people think that statehood is a good idea and others are a bit nervous about it. We are not here today to talk to you about statehood. We are here to talk about something different, something which will happen long before statehood. We have come here to talk about writing a constitution for the Northern Territory.

You cannot really think about becoming a state until you have a constitution. It is like when you formed the community government here. Before you took a decision to form community government, you had to sit down and work out the constitution or the rules which would determine how the council worked. It is the same for the whole of Australia. It has its own constitution and all the rules had to be written before it could become a nation.

Each state - Queensland, South Australia, Western Australia, New South Wales, Victoria and Tasmania - has its own constitution which says what its parliament and its government can and cannot do. The only place that does not have a constitution is the Northern Territory, because we are only a territory. As I said, we cannot even think about becoming a state until we write a constitution.

For the benefit of the people who have just come in, I will say again that we are not asking you whether you support or oppose statehood. That is not the question before us. We are saying that, one day, whether it is next year or in 5, 10 or 20 years, the Northern Territory will become a state. However, before it can even think about making that decision, the people have to look at what sort of state they want. They have to set the rules. It is the constitution which does that. It is the most important law. It is the law that the people make, not the law which the government makes. It is a law which stays in place all the time. It does not chop and change. It is fixed. Some

people say that it is a bit like God's law. You make the law and it is there all the time and other things come underneath it. It is there as a constant all the time.

This way, with a constitution, you say how the government works, how big it is, how it is elected and how the judges and the courts work. You say who has the right to vote. You say who has a right to become a member of parliament or to stand for election. You say which rights must be protected so that the government cannot fiddle around with them. They might include the right to vote or, as some people suggest, an entrenchment in the constitution of the protection of Aboriginal land rights. They might include a guarantee of Aboriginal culture and Aboriginal law, so that the government cannot muck around with them. Those are the sorts of things that a constitution can do. You set the laws and you tell the politicians what they can do and cannot do.

As you can see, there is a lot of work to write that law. We are just starting today. We have come here to ask you to start to think about it. We have some information which is a result of the the research or the homework which we have done. That is to give you some ideas to think about. I want to get your community to start thinking and talking about this so that we can come back later this year and hear what you think. We want you to tell us then what you think should go into this constitution. All we are doing today is letting you know that we are starting this job. We want you, in your own interest, to take the time to look at the issues and have your say in this very important job that we have to do.

I will briefly explain how we are approaching the task. This book is simple and, we hope, easy to read. Its aim is to set out some of the bits and pieces that you have to think about. It is bright and colourful, with cartoons and all that sort of thing to encourage people to pick it up and read about some of the issues. Its ideas come from this other book, which took 3 years to research and write and is a lot thicker. It was also prepared by our committee. We looked at constitutions in Australia. We have looked at the Self-Government Act, the Australian Constitution, and constitutions in America, Canada, Africa, the West Indies, Papua New Guinea and so forth. We looked at the sort of things they do in those constitutions, what sort of laws they have and how they go about things. We have put all the different ideas together in the books so that people can read them and say that they like this or that or do not like particular things. In fact, people might think of some things that we have not thought of. We want you to start to think and talk about these things.

You may not have some of the answers now but if you think about the issues you will have them. For example, we have a single House of Parliament, the Legislative Assembly. Some states have 2 Houses, the Upper House and the Lower House. Should we have that? Do you think that, in a constitution, you should say that politicians cannot call an election whenever they want to - in other words, that parliaments should have a fixed term? You can make those sorts of rules in a constitution. Do you think that the constitution should mention human rights or contain something like a bill of rights? Some people think that it is good to write them down whilst others believe that it is better not to, and that such matters should be covered by what we call the common law. There are lots of questions and, whilst I do not expect you to have answers now, you might have some ideas. What I want you to do and what we all want you to do is, please, to start thinking about these things and to start talking about them amongst yourselves so that, later on, when we come back, you can tell us what sort of things you believe should be included in the constitution.

We are going to take all of this information from all over the Northern Territory and our committee will sit down and prepare the first draft of the constitution. We will prepare it, based on what we think the people are saying. That will not be the end of it. It will just be the start.

In the following step, we are going to form a committee which will be called a constitutional convention. It will be a big committee of representatives of people from all over the Northern Territory. Its job will be to take our work, all of the things that we have been told and all the research we have done, plus what we have suggested, and to go through it. The convention will say that it agrees with things, wants to change them or throw them out and start again. It will work through the material. It will be like a big committee to draft the law and it is very important that its members are the right people, that they represent all the different people in the Northern Territory. The question we are going to ask you later this year is: what sort of people do you think should be members of that convention?

We do not trust ourselves to guess it right. We are asking the people how they believe that convention should be put together. It is a very important question. How do you make sure that the views of people from Hermannsburg will be taken into account at that convention? After everyone has given us their views about how the convention should be put together, it will form and do its work. It will produce a book, the constitution, and that will then be put to a vote of the people of the Northern Territory.

The people will vote yes or no on whether or not they like the constitution. If they say no, it will go back to the convention for further work. You can see that this will not happen quickly. It must involve all the people. If it does not come from the people and if it does not bring together the people of the Northern Territory, black and white, to form the rules for all of us, it will not be good and it will not work. That is very important.

We must work very hard to get this law right, not just for ourselves but for our children, our children's children and their children. It is the little ones who, in the end, will benefit most from our work on this, and we must make sure that what we put into the constitution will make this a good place for them. That is why you must get involved. You must think, talk, and have your say about this.

When you think about it, do not just think for yourselves. Think about all the other people in the Northern Territory and how we can bring it all together. We can do that. We can do something really worthwhile that our grandchildren will proud of. If we do not do it, if we walk away from this job, they will say: 'Why didn't they help us when they had the chance? Why didn't they do the job that needed to be done to help us?' That is what our job is today.

I am going to ask Mr Lanhupuy if he would like to have a few words too.

Mr LANHUPUY: Thank you for coming to meet this committee this afternoon. Steve has explained the work of this committee and how we are going about it. One of my reasons for getting involved in the committee's work is because I believe that, if the Northern Territory constitution is going to work, it is important that the Aboriginal people, 25% of the Territory's population, have their say.

We have a good opportunity now to do that. There has not been a new constitution in Australia for 100 years. The Territory is a young community which is starting to understand things. It has grown up after having been looked after by the federal government. The question we now face is whether we can look after our own interests. I want to make it clear that we should not confuse statehood and the constitution. Statehood might come at a later time for us but, as Steve said, the constitution will be like a book for the people of the Northern Territory, both black and white.

We are travelling around talking to people about the book that we have put together and asking people to read it, to think about the ideas it contains, and to talk about them, so that they can give us their ideas. This committee has no set timetable. We do not want it by next year, the year after or in 4 years time. We would like to come back to you and talk to you more about it, when you are ready. That way, we will be satisfied that the people of the Territory have made an input to the constitution that we hope to have one of these days.

I stress the importance of this. We may have a lot of arguments and disagreements with the government that we live under now and we may have certain arguments with a lot of other people. It is up to us, though, to make sure that we get valuable things like land rights put into this constitution, so that we can protect our culture and beliefs. Only the people in the Northern Territory will be able to change that law. The parliament, the people that you elect, will not be able to change the constitution. That is why it is important for us mob to make sure that we put our views to this committee. If anyone wants the constitution to be changed, it will have to go back to the people of the Northern Territory to vote on.

All the other states have their own constitutions. The federal government has a constitution for the whole lot of us. The people in the Northern Territory parliament, the Labor Party and the Country Liberal Party, believe that we have to work together to create a constitution. It is no use us fighting amongst each other. If the two major parties in the Territory can do that, it should be easy for anyone else to work things out among themselves.

I stress again that this is important for us now because it is going to affect our children and our children's children. If we miss out, we might be blamed for not putting our people's interest into this constitution. It is a good opportunity for us to be able to talk to the committee. The committee can always come back. If you want information, ring up the executive officer in Darwin. He will send you more information or organise visits by committee members. It is important that we raise you mob's awareness about this whole thing. If we do not, it will not be a good thing for us. If one group of people argues with the other, it will not be a good constitution for us.

Hopefully, when this is finished, you will have a book made by the people of the Northern Territory for the people of the Northern Territory, that can only be changed by the people of the Northern Territory, not the politicians that you elect. Steve has already explained the 3 stages including the big conference and the referendum at which people can vote to chuck the constitution out or to accept it. I just want to stress again that it is important that people in the community here start talking about it and asking questions. During the next 4 or 5 months, we will be visiting as many communities as we can, to gather their views. We want you to tell us your views. Even if you do not like it, tell us. If you do not like what this constitution is going to do to you or if you have any arguments for or against it, we want to hear them. That is why we have come: to listen and to talk.

Mr SETTER: One of the questions that a lot of people will ask is: why do we need a constitution? Most of us are pretty happy in the service now. The Territory is running along quite well so why do we need a constitution?

I think it is important to understand the history of this place. I am talking about settlement in the Northern Territory. The Northern Territory first came under the control of New South Wales in about the middle of last century, the mid-1800s. New South Wales had authority over this area and several settlements were established. Some failed and others did not. Because it was so difficult to administer from Sydney, it was passed over to South Australia, which administered the Northern Territory for years. In fact, it was the Northern Territory of South Australia. After a period, South Australia found it too difficult to administer and passed it back to the Commonwealth. Since early this century, the Northern Territory has been administered by the Commonwealth government. That was the situation for many years.

In 1974, we had the first fully elected parliament in the Northern Territory. Prior to that, some members were appointed and some were elected. In 1978, we achieved a major step in our constitutional development, if I could put it that way, when we became a self-governing territory of the Commonwealth. We are only partially self-governing because there are still some state-type functions over which we do not have control. We have now been a self-governing territory since 1978. That is a period of nearly 11 years and I think we have made leaps and bounds in that time. As everybody would agree, the next major step will be to become a state, to achieve statehood. We do not have a time frame for that. It might be, as Steve said, 5, 10 or 20 years. Who knows? That is a matter for the Northern Territory people to decide.

In order to move further down that road, we need a constitution. The constitution will lay down a set of guidelines, a set of basic rules. As I have said in earlier discussions, it can be likened to a bible by which the Northern Territory will be governed. That constitution will lock in place certain parameters within which the elected government of the day must operate.

If you look at all of the states and the federal government, the Commonwealth, you will find that they have all had constitutions for 100 years or more. In fact, the last constitution written in Australia was that of the Commonwealth, when federation was achieved in 1901. There has been no new constitution since that time. It would be simple enough for our committee, or indeed the government of the day, to write a constitution based on the constitutions of the other states and the Commonwealth and other experience around the world such as that of Papua New Guinea, which achieved independence 10 or 15 years ago. There are also other places whose constitutions would be relevant. We could write one. However, for a start, times have changed since 1901. This is an entirely different country with a different set of attitudes, community needs and so on and we believe that it is inappropriate to write a constitution along the lines of those which already exist.

That is why we are going out and talking to the people of the Northern Territory, Aboriginal and non-Aboriginal. In this first round of discussions, we are explaining what we are doing and what the whole process is all about. As Steve said, we will come back at a later time after you have had the opportunity to look at these documents and consider the various options. We will talk to you again because we are very interested in obtaining your views. At the end of that exercise, we will sit down and sift through all the information and draft a constitution which, of course, will at some stage

come back to the Territory people to vote upon. Ultimately, we will end up with a constitution. So that is what we are about.

Mr HATTON: We have done a lot of talking. The basic message today is that this job is starting. I hope we can encourage you to get involved and to have your say. It is a job we must do. It does not matter whether this job takes 1 year, 2 years, 3 years or 4 years. It is a job we must do. We must do it for ourselves and for our children. When we have finished it, we can talk about other things like statehood but we cannot do that until we get this job done properly. This is a way of making rules for a Northern Territory which will be a place where everybody can live together with respect for each other. If we can achieve that, if we can make a law which will do that, then we will have done something really good for everybody. Are you prepared to have a go at that?

I have talked enough. If there is anything you are not sure about or if you would like to ask us anything, please speak up. It is like throwing a bomb in the middle of a room, isn't it?

A few weeks ago, our executive officer Rick Gray and our lawyer Graham Nicholson sat down with the book and listed out all the questions. They typed out 11 pages, so there are plenty of things to think about. One of the issues relates to the terms of parliament and whether the constitution should include a provision which limits them to a specified time period, such as 3 years or 4 years.

Mr KEELING: I have a question, Steve. It concerns the law courts in the Northern Territory. There is a sort of magistrates court, an Alice Springs court and, I think, a Supreme court. I am not sure about that. How does the Northern Territory compare with the rest of Australia and each state in terms of our rights of appeal?

Mr HATTON: We also have our own appeal court in the Northern Territory now. Correct me if I am wrong Graham but, as I understand it, our court structure now is exactly the same - or basically the same - as in all of the states.

Mr NICHOLSON: It is similar, not exactly the same.

Mr HATTON: It is on the same basis though. It has all the different elements of court structure.

Mr SETTER: The different levels of courts.

Mr NICHOLSON: Most states have a district court or a community court, which we don't have.

Mr KEELING: There is a lot of debate between the parties about some of the criminal laws which come before the Legislative Assembly. Some people like them and some people do not. How would the constitution stop laws that are not generally acceptable to the public from becoming law?

Mr HATTON: There are some procedures that can be written into the constitution. A couple of people have raised this matter and I think it will be one of the things that will be argued about. It is possible to have legislation initiated by the people. It works like the petition system,

where a percentage of the population instructs parliament to make a particular law or to repeal a particular law. That sort of system is used elsewhere in the world. In California, if you can get a certain percentage of the people to support a proposal, it has to be put to the vote of the people and, if the people vote yes, it has to become law. The government does not have a choice. That is what happened when the people ordered the Californian government to reduce all taxes by 10%, which meant that it had to cut government spending by the same percentage. So there are ways of doing it in a constitution. It is unusual in our system but it is possible. Providing that we stay within the framework of the federal Constitution and do not do things like declaring ourselves a republic, we can write our own rules.

Mr CAMERON: The Northern Territory and Queensland are the only 2 places in Australia where you only have one government.

Mr SETTER: Yes

Mr CAMERON: No backup government.

Mr SETTER: That is right. No second house.

Mr HATTON: The closest thing we have to a constitution is the Self-Government Act, which is a federal act of parliament.

Mr CAMERON: Is the ACT in a similar situation?

Mr HATTON: It is now moving into the same situation as we are in. It applies to any Territory. As Australians, you lose quite a number of constitutional rights simply because you live here. For example - and I am not saying that it will or will not do this - the federal government can come into the Northern Territory and acquire any property it wants without having to pay for it. It can acquire without compensation. It cannot do that in the states because the Constitution protects the people in the states from that sort of acquisition. There are a lot of things like that in the Constitution which do not apply to us because we are not a state. The Australian Constitution refers to a federation of states. There is only one clause that deals with territories and that says that the federal government can do what it likes with the Territory. That is exactly what the federal government does. This is a way of starting to build in your own rights so that they can be protected from governments and politicians.

Mr KEELING: Is Western Australia the only state which has control of its own land rights, with the rest of Australia under Canberra?

Mr HATTON: Every state has its own land rights arrangement. The Northern Territory is the only place where land rights is under the federal government.

Mr LANHUPUY: (inaudible).

Mr HATTON: Wesley is explaining that the Northern Territory Land Rights Act is a federal act. In South Australia it is the South Australian government, in Queensland it is the Queensland government, in Western Australia it is the Western Australian government. The same applies in New South Wales and Victoria. Each state deals with land rights in its own way. Some Northern

Territory government laws are associated with the Land Rights Act but we must follow the Land Rights Act in making those laws. We do not have the right to do things there. We have to get the approval of the federal government, even in relation to our own laws on Aboriginal land rights. In that respect, we are different to the rest of Australia.

Mr KEELING: If statehood came, the Land Rights Act would automatically have to be repealed because it would not be ...

Mr HATTON: Not necessarily. This is why I said that the constitution is one thing and statehood is another. There are a lot of questions about statehood. It is like sailing into uncharted waters. You are walking into a place that no one has ever gone to before because it has never been done before. Those parts of the Australian constitution that talk about it have never been tested. There is a clause, and it is mentioned in this book, which states that the Commonwealth government can make a new state under such terms and conditions as it sees fit. It can write the rules in terms of such things as the powers a new state can have, its level of representation, number of senators and so forth. It has the power to do that.

There is another suggestion that the Commonwealth does not quite have that much power. That is why we will be in and out of the High Court frequently. That is why statehood has to be thought of separately from creating our constitution. We are going have to work all those things out and as a community we will have to negotiate with the federal government about becoming a state. But you cannot even think about starting that until you know what you want your state to do. You cannot even start to think about whether the Land Rights Act should become a Northern Territory act of parliament, whether we should have a separate industrial relations system, what the financial arrangements should be and so on, until we have developed our constitution.

Mr SETTER: One of the things that people will possibly find difficult to understand is the difference between those matters which should appropriately be defined in the constitution as opposed to those matters which would normally be in laws passed by the Legislative Assembly. Sometimes those matters become confused. For example, when you made reference earlier to police powers, you were talking about the Police Administration Act which is an act of parliament as opposed to a matter that would normally be dealt with by a constitution. You can talk about such matters in broad terms within a constitution but you do not tend to go into a lot of specific detail about them because that is appropriately picked up in legislation.

Mr HATTON: There is a distinct difference between going for statehood and writing a constitution. Although writing a constitution is a necessary first stage in terms of eventual statehood, it does not mean that statehood will automatically happen. They are separate decisions.

Mr CAMERON: Would the constitution need a major revision after statehood?

Mr HATTON: No. That is why we need to spend time on it now. What is important is that we have our constitution in place before statehood so that the federal government cannot impose a constitution on us. If the constitution is developed after statehood, one legal argument suggests that the the federal government may have the power to change our constitution. Therefore, if we want to protect it and make it the Northern Territory people's constitution, we have to get it done first.

Mr SETTER: Otherwise we will end up with a constitution that somebody in Canberra has written on our behalf.

Mr HATTON: Possibly.

Mr CAMERON: The Northern Territory people can write it before statehood but what happens if it needs major additions after statehood?

Mr HATTON: It should not if we do it properly.

Mr LANHUPUY: It cannot be changed without going back to the people. The parliamentarians cannot do it.

Mr HATTON: The people have to do it. One of the rules in the constitution will determine how the constitution can be changed. You can make the rules on what has to be done to change the constitution to protect it from people. Different parts of the constitution can have different levels of what is called entrenchment. Some constitutions allow parliaments to have the power to change some provisions whilst others require a majority vote of the people for everything. You might need a 75% majority. All of those rules can be written. We are just starting from the very beginning and it is all there for people to be able to pick up and work with. What a tremendous opportunity it gives us!

Mr PARAROELTJA: Can I just ask how you are going to gather the information? Say you come back here in 4 months. How are you going to gather up all the information and how are you going to see all the people?

Mr HATTON: Firstly, you will notice all this sound equipment around the place. We are recording every meeting we have and that will form part of the Hansard, the permanent public record. We will take that information and analyse it. We will do a matrix and group all of the points made. That in itself will be a major research project. When we have summarised that information, we have to work through it. All of the documentation, including the summary work that we do and the technical research, will go forward to that convention. If we have it wrong, presumably the convention will sort it out and fix it up.

Mr PARAROELTJA: So it can be done through voice recording?

Mr HATTON: Yes, it will become part of the permanent public record.

Mr PARAROELTJA: You are not asking us to write this down.

Mr HATTON: We will take written or verbal submissions. We will take them, however they come. You can write us a letter if you like.

Mr SETTER: We have already received a lot of written submissions.

Mr PARAROELTJA: You have, have you?

Mr SETTER: Yes, because we have had a number of other meetings in the major urban areas during the past 12 months. We advertised for written submissions more than 12 months ago and various individuals and organisations presented written submissions and followed them up verbally before the committee. That does not mean to say that there cannot be further written submissions.

Mr HATTON: If people would like copies of Hansard they can be made available on an ongoing basis. If your community wants a full record of all the transcripts, you will need to ask for it. We want to encourage you talk about it and think about it and to get involved. If you have posters, put them up around the place. There is one simple message: have your say. That is what we want you to do.

Mr LANHUPUY: Just start to think about it and talk about it. We can always come back.

THE COMMITTEE THEN MOVED OUTSIDE AND SPOKE TO UNIDENTIFIED PERSONS NEAR THE HERMANNSBURG SCHOOL.

Mr HATTON: It might happen in 5, 10 or 20 years but, one day, the Northern Territory will be a state. I do not know when. What we do need to talk about is what we call a constitution, which sets the people's law, a law that is going to last all of the time, no matter who is in government. It is rules that you give to the government. It says what the government can and cannot do. It is what you write to protect your rights so that the government cannot muck around with them, whether they apply to your land, your culture or your religion.

Mr PAREROULTJA: Do you think that it is going to change? Do you think the law will be the same? I think it will be. The other bloke said it has been done since 1901.

Mr HATTON: That is the Constitution of Australia. As well as that, each state has its own constitution - Western Australia, South Australia, Queensland, New South Wales and so on. But the Northern Territory does not.

Mr PAREROULTJA: We have nothing?

Mr HATTON: We haven't.

Mr PAREROULTJA: I didn't know that.

Mr HATTON: They can do what they like with us.

Mr LANHUPUY: Other states have their own acts of parliament to give land rights or to give recognition for Aboriginal people to have land. If we argue for this constitution, and we make sure that it says that balanda people recognise our rights and recognise that we were the first people living here, the parliament cannot change it.

Mr HATTON: It is even stronger than the federal lands right act.

Mr LANHUPUY: It will be even stronger.

Mr PAREROULTJA: I just came up and started talking to you. I am sorry about that.

Mr HATTON: It is all right. Don't worry about it.

Mr PAREROULTJA: We were just talking about this and that, about the things we need to have in the Northern Territory.

Mr LANHUPUY: If we want our rights to be recognised, together with our ownership of land, that has to go in the constitution.

Mr HATTON: We have to do it. I always say that it is like a person growing up. When you are a child, your parents guide and teach and help you. When you become a teenager, you have learnt more and you want to try things for yourself. Your parents, though, are still ready to support you if you need help. One day, however, we all have to stand up as men, as adults, and make our own decisions for our own lives.

Mr PAREROULTJA: That is right.

Mr HATTON: It is the same with the Northern Territory. Once upon a time, Canberra did everything. It told us what we could do and what we couldn't do. Then we got self-government. We started to try a few things out but Canberra is still there to help us out or to change a direction if it does not like the way we are going, just as a parent does with a teenager. One day, however, we will have to stand up and say that this is our home and we want to run our own lives like a grown man or an adult.

Mr LANHUPUY: That is why it is important to put that story in there.

UNIDENTIFIED PERSON: We are older people and we just want order. I worry about causing strife.

Pasta Traugott MALBURKA: Awe lanhe kwele rertaye, nchange under the Commonwealth Government, under the federal government nchange renhe ilwerenge kwenhe nchange nwerne netyeke. We gonna have whole statehood ..

(Another speaker) ..changed...

(First speaker continues) Northern Territory Government ...ingkamentye lanhe renhe ingkamentyeke relhele, kngkamentye.

Yes, that's it under the Commonwealth Government, under the federal government under that one, we should stay. We are going to have whole statehood, the Northern Territory government. We Aboriginal people have got to put that law.

Mr HATTON: You can write the laws now. That is what this book is about. It is to write the law so that it is strong and so that it says what the government can and cannot do.

Pasta TRAUGOTT: That is what we want.

Mr HATTON: Yes, and that is what we have to write. We have got to be very careful to make sure that it is a good law for everyone. It is a hard job but we have to start. You men are very important because you are the leaders. You have to go out to your people and talk to them and get them to make sure that they have their say, to make sure their rights are protected.

Mr LANHUPUY: Because this law, once it becomes law, will be for our children and our children's children.

Pasta TRAUGOTT: We could say something about what is our law.

Mr HATTON: That is right.

Mr LANHUPUY: If we want our law put in this constitution, we have to talk to this mob.

Pasta TRAUGOTT: That is right.

Mr LANHUPUY: And if we want our culture, law, and land ownership recognised, we have got to put it in the constitution.

Mr HATTON: It is really important that you make sure your people are doing that.

Pasta TRAUGOTT: What do you reckon if all the people say something to you. If they all say it is that way ...

Mr HATTON: It is the law.

UNIDENTIFIED: It is the law?

Mr HATTON: Yes, I understand that.

Mr PAREROULTJA: Law nhanhe renhe ingkarnentyeke, ingkarnentye nhanhe ire irtnatyeke.

We can put this law so we can have law in this land.

UNIDENTIFIED: That is that. Everybody sees this law.

Mr HATTON: Yes, you draw the difference. It is the Aboriginal law.

Mr PAREROULTJA: Nwerneke, government salpe nteme netyenhe nchange itelaraye iwenhenhe nteme statehood they call em no more Northern Territory, just like Western Australia, Queensland itneke, ingkarnentye itne kenhele itne ingkarnekele ingkarnentye kwenhe nhanhe neme, relhe nwerne nhanhele neme or white and black.

Lanhe thewe neme government ingkarnentye ire neme, ingkarnentye ire Canberra pele ingkarneke. When ver they been, before we born, before our father been born, or before our grandparents been born itne ingkarneke Canberranhe government, arrkwele nthurre imanke government. Constitution itne ingkarneke or ingkarnentey we callem in Arrernte Language ingkarnentye mparengarenghe itne ingkarneke, arne nhanhe irrkwetyeke relhe ntyarrele relhe

tywelkere ntyarrele right nhanhe nteme lyate nteme nwernekelile ire urrakpeme kethirretyeke that was the first one only the white man bin making this law constitution ingkarneke Canberrake kenhe today now we all this is new for us Aboriginal people nwerne nteme irrpeme lyate. Constitution nhanhe ingkarnetyeke. Nhanhe ingkarnentye nwerneke ingkarnetyeke nwerne Northern Territory nwerne itnatyeke. Irrkwetyenhe mpangengerenge nwernekenhe ikerlte irrkwetyeke, nwerne itnamele. Nwerneke itne kangkweretyeke, nwerne mparyetyeke, not itne mparyetyeke nwernekewerne, nwerne mparyetyeke. Northern Territory people ingkarnentey nwernekenhe, mpangengerenge nwernekenhe ingkarnetyeke ikerlte irtnatyeke, bit of clear understanding nhanhe unte weme.

Nhanhe kwenhe, that's what he come out, them mob come up and explain it. I keep on explaining, I shouldn't explain this because I don't get paid from the government. It's different story if I'm interpreting going around the country side, because everybody go for money you know.

That's the way we can stand now. Nhanhe mparyetyeke Northern Territory into statehood. Northern Territory were just like wild Indians, Territory's just must be just like wild animals. Well we gotta bring this back state werne nteme ngetyeke and we get recognised we are people.

We are white and black people, the same people, not wild people. Well savage what they call Indian savages itne ilemenge, without that sort of thing we are people.

We got to make this rule nwerne ingkerrekele.

(inaudible: people all talking at once.)

A proper job yeah people talk to people, lakenhe.

So we can have our own government and think about what is will be, this statehood. They call them no more Northern Territory, just like Western Australia, Queensland, and their law after they put that law it stays. We Aboriginal people stay here white and black. That's how it is, that law stays. This law has been made in Canberra whenever they been before we were born before our father been born or before our grandparents were born. They made this law in Canberra long time ago, government constitution they made. We call them in Arrernte language.

We got to make this law, all of us people. A proper job, yes people talk to people like that.

UNIDENTIFIED: That one that came from Canberra, that was white man's law. Now, this is all new for us, for the Aboriginal people. I am talking about the Northern Territory constitution. (Speaks at length in an Aboriginal language). We are getting a clearer understanding now. That is why we asked you to come out and explain it. I should not be explaining this because I do not get anything back from the government. It is a different story if I am interpreting around the countryside because everybody goes for money, you know.

That is the way it stands now. In the Northern Territory we are just like wild Indians, just like wild animals. With all this, with statehood, we have to get recognised as people.

Mr HATTON: That is right.

Mr PAREROULTJA: In the Northern Territory, we are black people and we are white people. We are all people. We are not savages, as some people call us. We are people.

Mr HATTON: Of course you are

Mr PAREROULTJA: We got to make this rule.

Mr HATTON: We need you to go to your people and talk. If you need other people to come and explain what some of these things mean, we will come down and we will talk. All right? It is important that we talk and that people understand the issues and think about them in the community, so that they can come back and say: 'This is what we think'. We must start to think and to talk. We have time. There is no rush. It has to be done properly.

Mr PAREROULTJA: A proper job.

Mr HATTON: Yes.

Mr PAREROULTJA: People talking to people.

Mr HATTON: Yes, that is right. We are just saying that now is the time for you to start talking to people.

UNIDENTIFIED PERSON: Ingkerreke nwerne lyate itelaremele ngketye nhanhe ingkerrenyeke nthurre ntekelhiletyeke lakenhe kwenhe nwerne ingkerreke ilerrewewe-ilerrirtnetyeke, that's rights. They reckon from us, ourkids are otherwise they call them from this generation,t hat generation and so on. Wale, nhanghe nwerne ileme, rame rame lyate nwernekengetyele rame rame nwernekenhe mapewerne nteme nhanheye kwetante ingkarnetyeke. Tywerrenge pele nwerneke irtnake, tywerrenge, Tywerrenge nwerneke itnake arrengele.

(This next part is in Pitjantjatjara) (Miri watawanatjangku tjana ngaratjunu nyangatja)

Lyatale irtname nhanghirre ngketye renhe thewe institution renhe ileme ingkarnentey that one ingkarneme irrerlknalperle. Or nthanhe lyate nwerne nteme ingkerreke lyatenye mapele nteme nhanhe renhe irrkweme. Lakenhengirre thewe, mparengareng, lakenhe renhe tehwe nhanhe antye neme ingkarnetyeke. Mght be ingwenthengirre nwerne ngkerreme, might be nwerne kwete peke ngkerretyene, he gotta be petyele arlte nyentele irtnatyeke law nhanhe ire. Gotta be mean one day might be ten years time, might be 15 year time or 12 year time. Maybe everybody thinks it's might be good idea, well new law we might come in tomorrow.

Today we can all think and talk about this, and tell them that is what we want like that., that's right. They reckon from us, our kids are otherwise they call them from this generation and that generation and so on. Well. Like that we start today from our generation to their generation, we always got to have that law, our sacred things, objects have been on this land from the beginning. We have got to

have our say now, about this land, about this institution. These laws we are talking about are here forever, so we can this law here. Might be in the morning we can make it or maybe we'll have it always, it's got to be made one day this law. Got to be made one day might be 10 years time, might be 15 years time or 12 years time. Maybe everybody thinks it might be a good idea. Well, new law it might come in tomorrow.

We have to start with our kids ... from this generation to that generation and so on ... Maybe it will be in 10 or 15 years time or, if everybody thinks it is a good idea, it might come in tomorrow.

Pasta TRAUGOTT: We are old men.

Mr PAREROULTJA: We are old men. We people from Northern Territory should make a law. We stay, we bin born here, we stay here, we gonna die nwerne, some of the white people they're coming in from the states, they've a good life to go back. But we from the Northern Territory, nwerne ingkarnetyeke nhanhe renhe kwetante renhe one for all.

(another speaker) forever.

(another speaker) not for you and me, that's for everybody.

We are old men. We people from Northern Territory should make a law. We stay. We've been born here, we stay here, we are going to die here.

Some of the white people just come in from states they've a good life to go back to. But we from the Northern Territory should make this law, one for all and every, not for you and me. That's for everybody.

Pasta TRAUGOTT: Not just for you and me. This law is for everybody.

Mr HATTON: That is right.

Mr PAREROULTJA: Awe, nwerne, nhanhe Northern Territoryele neme ingkirreke nthurrele nhanhele law nhanhele nwerne irtnatyeke, I reckon, I was just think you know, that gonna be pretty good, because we gonna put our favourite Northern Territory.

Unte kaltye neme, according to my private life, I had really big battle with them Commonwealth government and federal government and not only me all this Northern Territory, black and white, they have been controlled by Canberra. Commonwealth, federal government, control all the time, and we don't know who they are, we got Northern Territory, we Northern Territory people, we got to have government in the Northern Territory and we can work together.

We are the people who live in the Northern Territory who should make this

law. I reckon I was just thinking you know that's going to be good because we are going to put our favourite Northern Territory.

You know according to my private life I had a really big battle with them Commonwealth government, not only me, all this Northern Territory, black and white, they have been controlled by Canberra, Commonwealth, federal government all the time, and we don't know who they are. We Northern Territory people, we got to have government in the Northern Territory and we can work together.

Mr HATTON: That is right.

UNIDENTIFIED: And we do not know who they are. We are Northern Territory people. We have to have a government in the Northern Territory.

Mr HATTON: That is right.

UNIDENTIFIED: And we can work together.

Mr SETTER: You know you can come and talk to us anytime.

Mr PAREROULTJA: We can go and talk to the bloke, anytime we want. We can't talk to them mob there. It is a little thing not only just only that one and that few little thing that's gonna come in mparengareng ingkarentye nhanhe ikwerele, all this little thing gonna come in.

We can go and talk to the bloke, anytime we want, we can't talk to them mob there, few is little thing that's going to come in. We can make this law, all this little thing gonna come in.

Mr HATTON: You remember all the talks we had to try and sort out the problems with Watarrka.

UNIDENTIFIED PERSONS laugh.

Mr HATTON: I think we fixed up all the problems you fellers had. The only problems were with the lawyers. But it was a long fight, wasn't it?

Mr PAREROULTJA: It is a long fight but it's mostly coming pretty good. I don't know.

Mr HATTON: It is coming good now. Everyone knows the truth now and that is what is important.

Mr PAREROULTJA: That's right.

Mr HATTON: You bring the truth out and then everything starts to work.

Pasta TRAUGOTT: Lanhe ire kwele ingkarentye nhanhe ikwere kwenhe they gott come back, when they come back, we can tell them the, we'll be waiting ready the, allright we want do

that we want do this, go ahead, we want that and this, we gotta tell him and they gotta push that Commonwealth government, federal government Canberra renhe itne nteme push-em-iletyeke nhanhe itne, what Northern Territory people here, want this and that, this gotta be what they call nchange mparengarenghe they call this biggest word you know. Nhanhe neme kngerrtey nthurre no body understand, well in our language we call em mparengarenghe relheke, arne nhanheke mparengarenghe.

This is this law now. They've got to come back and when they come back, we can tell them then. We'll be waiting ready then all right we know what to do. We want to do this, go ahead, we want that and this. We've got to tell them, and they've got to push that Commonwealth Government, federal government in Canberra, what Northern Territory people here want. This is very important to us. We've got to think and talk about this law, this law on our land.

I am quite happy about this one. Black and white together.

Mr PAREROULTJA: They got to come back.

UNIDENTIFIED: Then we say: we want to do this, we don't want to do that. We can tell them. Then they have to push that Commonwealth government in Canberra - the Northern Territory people want this and that and so on. There are big words that nobody understands - we have a name for that in our language. (Speaks in an Aboriginal language).

Mr LANHUPUY: It will be like a bible for Territory people.

UNIDENTIFIED PEOPLE converse in an Aboriginal language.

Mr PAREROULTJA: Nhanhe thewe neme well this a bit tricky word this one nhanhe mparengarenghe arne nhanheke, this the statehood they call em, Northern Territory statehood, mparengarenghe arne nhanheke, so everbodyele know, well all the languages they probably know's anyway, well far as I know all these other people they are battling for this sort of a government now.

This is how it is. Well this is a bit tricky this word. This law is for this land. This the statehood they call them, Northern Territory statehood, law for this land, so everybody will know. Well all the languages they probably know anyway. Well as far as I know all of these other people they are all battling for this sort of a government now.

Mr HATTON: You go and talk to your people. Ring us up, write to us or just send us a message if you want us to come and talk to you. We will come and talk to you after you have talked with your people.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

NYIRRIPI — Monday 10 April 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 Kevin JURRA (Translating)
Mr Tiger JAPALJARRI

NOTE:

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

(Discussion in Aboriginal language with occasional English words).

Mr HATTON: Thank you very much. As you have been saying, my name is Steve Hatton. I am the chairman of this committee which has come to talk about making a special law for the Northern Territory called a constitution.

Mr JURRA: Constitution. They call him nganayi new law kalu ngurrju-mani government-rlu. Constitution nganayi new law-kurra kajikalu-ngalpa yirrarni, like kajilpanpa japu-mantarla might be walypali yaninjarni-kirra secret site and everything. Yangka new law kujalu ngurrju-manu government-rlu. That's why trying. They trying to make nyampupaturlu nganayirli nyampu kuj kalu committee-rla nyinami 8-pala, they trying to go tell people about new law government-kurlangu and we going listen.

Constitution is what they call the new law that the government is making. Constitution is the new law that will make for us like they might stop white people from coming to the secret sites and everything. Like the government made that new law. That is why these eight people in the committee are trying to tell people about this new law of the government and we are going to listen.

Mr HATTON: I guess you heard a lot of talk around about maybe one day the Northern Territory will become a state. Some people think it is a good idea, but other people are not very happy with that. They are worried at what it means and they are just not sure what to do. We are not here today to talk to you about becoming a state. We are here today to talk about something different. You cannot even think about becoming a state until you know what sort of a place you want the Northern Territory to be, how you want it to work and what sort of place you want it to be for everybody. To do that, the people have got to write their own law. It is a very strong law. It is a law that tells the government what it can do and what it cannot do. It is a special law to protect people's rights, the things that are really important, that they want to stay there for always. They write them into a thing called a constitution. It is a law from the people to be there always.

Mr JURRA: Government-rlu kapulu ngurrju-mani new law, two side walypali-kirlangu, yapa kurlangu, manu think-jarrimi karlipa yangka ngaliparlu yungurlupa-nyanu law mardarni strong-juku yungurlupa-nyanu government-ku wangkami warrarda all the time kajilparlipajana yardarra parnkayarla government-ku jintangkalku nyinayarla, lawa they won't give us land right-pinki everything lawa kalakalu damage-mani yalumpuju secret thing all, everything. We gotta be strong, that's why they trying to make nganayi new law Government-rlu ngulakujaku because walypali-kirlangu law is nganayi weak, yap-kurlangu law is strong - ngalipa-nyanguju. (can't hear) Law-ku ngalipa-nyanguku let him go too far so kardiya can take over our land, we gotta be strong.

The government is going to make a new law, one law for both sides, for black and white people. We are thinking about this law and we are going to keep it strong all the time. We are going to talk to the government all the time. If we go along with the government or if we all have the same law they won't give us land or

other things. They might damage secret sites, cave and other things, to avoid this we have got to be strong. That is why the government is trying to make this new law, this law is going to be like that because white people's law is weak while black people's law, our law is strong. (can't hear) We let it go too far, the white man will take over our land so in that case, we have got to be strong.

Mr HATTON: This law is the one where you say that there are things that the government cannot touch.

Mr JURRA: Law nyampurla yungurlupa wangka kuja, "Nuwu yungulu government-rlu touch-mani ngalipa-nyangu yangka - ngula."

In this law we want to say to the government that they are not to touch anything that is ours.

Mr HATTON: In this law, you might write that the government cannot touch your land. It protects your land rights, no matter which government.

Mr JURRA: Mining-rlangu, you know, kujakalu yanirni mining company-rlangu, ngulakujaku we gotta think about nuwulu yangka kujakalu-ngalpa nyampurlu government-rlu ngarrirni they trying to take over, they can touch any secret site, kalakalu damage-mani. Ngulakujaku, we want to say no - ngalipa yangka yapa. We want to be strong. They trying to make this law kuja-mawu yungulu yiniwayilki yanirni government, mining people and Royalty something yangka oil kujakalu find-mani, ngula yungulu damage mani secret site yirni all ngulakujaku, we gotta say no - strong-juku.

Like miners, you know, who come here, like those mining companies to avoid that we got to think about what the government is telling us. They are trying to take over. They will touch any secret site. They will damage them and to avoid that we want to say no. We Aboriginals, we want to be strong. They are trying to make this law, a law that is going to allow the government and the mining people to come into our land to look for oil or something and to do other things. They will damage the secret sites. To avoid that we want to say no and be strong.

Mr JAPALJARRAY: Can I say something? I think this law, our land for the people been have a long time here, olden time people. That is why I am like the young people come as a man through this land. That is why people go and look after me. See I think I might want this place. It got to be blackfella law. This is what I think about. Because I make this law. We have the outstations before and they have grown up a little bit bigger. That is how I like when I have this place. They can look after them. All this place. That is our place. See, any one people come down, mining people, NT government. We going to be very hard to reach this place. They can come, mining people, check ... (Indecipherable) ...secret place. Just for old people. That is how I like. Want to keep them. There is a man, this young fellow here. He is still young. He is not old

people like me here. He belong to this area (Indecipherable) ... George. And we had a lot of family here. Secret place, we can have them. That is olden time, can have old people there, but we can have them ... (Indecipherable) ... That is all I say.

Mr EDE: You all know me, Brian Ede, time I have been travelling around before every time we have been talking about land and sacred sites and house and school, water and all those sorts of things. If you want to talk about that after this meeting, we can talk about all those other things outside. But this one here is a special meeting for what we can call a constitution. Now, I will just talk a little bit about that thing that is called a constitution. Because it is just another name for a special law. Kardias mob got all these laws. Council might make laws. It might be the Legislative Assembly that makes a law. It might be the federal government that makes a law. Everybody complains all the time because they keep changing them. You say: 'How come we follow this mob, this Kardias mob? They are always putting in laws and then changing them, changing them around all the time'. Everybody gets all confused.

But Kardias mob have got one lot of laws that they do not change, only little bit, little bit, they might change them. That is the one they call the constitution. Now constitution - that is that one that stands right there, like that ground. It is there all the time, that constitution. Every other place in Australia - New South Wales, Victoria, Queensland, federal government everybody - they all got constitutions. That constitution stands on top of that government. That government cannot break that constitution. If that government breaks that constitution, people can pick them up and take them straight into court and the court will say: 'Cut it out. That is no good. You can't do it'. The constitution is boss for politicians, boss for government. Federally, Western Australia, everywhere they have got that one. Here, we just got one little bit of something they call the Self-Government Act, given from Canberra. We have not got that constitution. If we do not have constitution, if they go for statehood or something, and they give them all this power, who is going to say how that power is going to be run? Is it going to be run the proper way for everybody or just going to be run for one mob or what is going to happen? People have got to get worried if that statehood goes and we do not have a good constitution.

We have got to have a good strong constitution first. We have got to have it there and we all agree and we say: 'Okay. This is that law. This is that law that says how government has got to go'. That is so that the government cannot come along and muck up people. It cannot come along and take things away from people. It cannot come along and take away land rights, muck up sacred sites, break that law, that strong law that I always talk about. Kardias law, Yappa law, 2 laws, have got to be like this. Two going together like that, one way, and the Northern Territory will be strong. If they are coming this way, we cannot be strong because we are fighting each other.

What we have got to do in this constitution is that we have got to write them up like this so that everybody understands each side and we can go together like that. Then, we are talking that same way and everybody can say: 'That is good way for our children, our grandchildren, everything'. So that is why we are coming out today. We are not coming out to say, 'Hey, we got a new law in our pocket here', and throw it out like that. No way. We are saying: 'Maybe next year, 2 years, 5 years, 10 years, 20 years, we have got to talk about how this law is going to be'. It is not something we can sit down and say: 'No, we are not going to worry about that one. We will let all them Kardias mob work them up, lawyers, smart fellas like that, work them up in Darwin'. We

cannot do that. Can we do that? They are going to work up their own law, that one, and come back and then we turn and say: 'Hey, who did that. Who put up that new law? We did not want that one'. Too late. That is why now, when we are starting off, that is why we want to come out and talk to everybody everywhere. Every little place all around, corner place, big place, everywhere. We are travelling around, talking to everybody, just telling them first that this one is coming up.

That first book there, that is for everybody to start to look and say: 'Okay. What is in this constitution?' It has got to talk about things like voting. It has got to talk about how the court is going to work. It has got to talk about who can go and sit up there in parliament. It has got to talk about things like land rights, sacred sites, culture, language, schools - all those things. What can people do? Who has got the power after that statehood comes up?

That one there, that just puts part of the story. We got another one here. We are going to leave them behind. What we want is for people to read this one and, if they got anything that they are worried about, put them on a tape recorder or get somebody to write them up or whatever, send them away and say: 'We want to talk more about this one. We do not understand what you are talking about here'. Send them away to us. You have got an address there. Some people can come back and we can start talking, talking and talking. Like I said, we might be talking for 5 years. It might run really easy for 3 years. We might all agree on just about everything then, after a while, one little thing might start an argument. Like the Kardias mob, Top End mob, might be saying one thing, mob down in here in desert country another thing. We might have an argument about that. Well, when that comes up, okay we have got to sit down together and talk about it. How does your law work? This is how our law works. This is how we want it to go. In that way, we can all get them down nice and quietly and move ahead a little bit further, a bit more, a bit more.

When it is all fixed up and everybody says that we have got a good one, that is how we will go, then we can look around and we are all together like that. Then, we can start talking about this statehood business. We can talk about it afterwards. We do not want to talk about it now because it is too early. We can't look at it and say, 'What is statehood?' I do not know what statehood is. We do not know what it is until we have got a constitution first. That is why we are out here today, just really to get everybody to start thinking now. That constitution in the Kardias way is the biggest law. It is my boss, Steve Hatton's boss, Administrator's boss, judges' boss - they all come under that constitution. So people, everybody, you mob, got to work out what we are going to have in that constitution because that is going to be how we are going to go together, our children, grandchildren, great grandchildren like that, 100 years, maybe 1000 years, I don't know. Okay?

The way we go about working this is that we go out this time. We just talk and tell everybody and then we get out all this information, all the stories about everything, and then we might come back again and people can start telling us what sort of thing they want inside this. They can say: 'This is how we want to look after our sacred sites. This is how we want to look after land rights. This is how we want that voting to go. This is how we want our culture'. All that sort of thing. And those things can start coming back in.

What we do is that we get all those stories in first. Then, we get what we think is right. We have a first go and put up what we call a draft constitution. We are not going to put that draft constitution straight into law. What we are going to try to do is get people from all over Northern

Territory - not just politicians but ordinary people, people from Yappa mob, Kardia mob, lawyer mob, teacher mob, business mob - every different mob come together to have special big meeting. We will give them that one that we have been looking at and people can start working on that one. They can have a look, everybody. You can say: 'Is this right? That mob, were they listening to us straight? Were they listening straight when they went around all that time covering around our bush, were they listening to us straight?' If they say, 'No, it wasn't that us mob weren't listening straight; we got it wrong', they can chuck them straight back again to us or they can change them themselves. If they can get them so that they are happy, it is still not going for law.

After that one, what we are going to do is that we are going to have what we call a referendum. You remember last year that referendum where they asked yes, yes, yes, yes, and no, no, no, no, on that referendum? Right? Well, that is what we are going to do with this one when we get them there. When all that constitutional convention think it is okay, we will send them out and everybody will vote on them, right around, all around Northern Territory. If people say no, that we still have not got it right, okay we will start again and we will work and we will go again. We are not in a hurry for this one. We are not trying to rush this one through. If people say that something is wrong, we will start again, because this one we got to get right.

Another little law can come along and they can get it wrong the first time. Lots of times we have been arguing about which law has been right way and which law has been wrong way. That has been done up in the Legislative Assembly. Labor side might think the government did it wrong. They might think they got it right and we have argument about it now. But, we know that, next time around, if we get to be government, we can change them. The constitution is different. We have got to get them right first time. We do not want to go mucking around with the constitution changing them later on. If anyone thinks something is wrong, tell us. This not the government law. This is not the Labor Party's law. This is the people's law. The people say how they are going to be bosses for the Northern Territory, how they are going to make this work. The biggest thing is for everybody to read the book, think about it, talk about it so all you mob are going to be involved. You are the bosses for this one. You have got to think about it. What is inside, how is it going to work, what are we going to do? Think about it.

Mr HATTON: Talk about it.

Mr EDE: Talk about it. Talk to other mobs around other places about it. Talk to other people too like legal aid mob, land council mob, Tangentyere. Talk to Walpiri mob too. Everybody is talking about it because we are all Northern Territory. This is the one we talk together and we work out something that we can all be happy with.

Mr JURRA: Kujarnawulu-ngalpa ngarrurnu law-ngkaju, you know.

This is what they told us about this law, you know.

Mr JAPALJARRI: Ngalalpa wangkayarla yarda? (Who wants to say more?)

Mr JURRA: Law waja kalu-ngalpa ngarrimi really strong one-nyayirni, ngarrimi constitution-rlu ngalipaku, nati yangka kujarlu ngaliparlu yangka two way nganayi ngurrju-mani, next year might be karlipa law-kari ngurrju-mani, next year karlipa law-kari ngurrju-mani, next year

karlipa law-kari ngurrju-mani no. Nyampuju tarnnga-juku government-kurlanguju karrimirra law-ju. Tarnnga-juku kalu yirrarni. We just want to talk about it and think about it. Yuwayi, that's why we just want to listen carefully yapangku, walypalingki. You know, kajili-ngalpa ngarrirni because (can't hear) it's really hard for us.

This law that they are telling us about, this constitution, it is a really strong for us. We are not going to make it two ways like it's not going to be like the law we used to have before. Like next year we make a law, and the next year we make another law, and the next year we make another law. No. This government law will stand forever. They will make it for good. We just want to talk about it and think about it. Yes, that is why we want to listen carefully Aboriginals and whitemen. You know, when they tell us because (can't hear) it's really hard for us.

Mr JAPALJARRI: Ngakalu-jana ngarrika! Talk about little bit-kini. Wala yapakurlangu, yapa-kurlangu, we got no anything like, you know, white people (can't hear). They got lot of (can't hear) but only we got yapa law. That's only not enough, but we still might be, we talk forgovernment-ku. Kuja-piya-kula, nyampu-piya, like when we have little bit meeting, see (can't hear). We not like rich, see, you know what I, what I mean. You know, back fella way, you know (can't hear) the one, but that's only I talk so far, you know, when I were sing we only rob him kardiya for everything, but yapa, we going be like a way we been having before.

Talk to them later! You talk a little bit later. Well, us Aboriginal people haven't got anything, white people (can't hear), they have got a lot of things (can't hear) and we've only got Aboriginal law. It's not enough, but we still might talk to the government. It's like that. Like this, like when we have a little meeting, see (can't hear). We are not even rich, see, you know what I mean. You know, in the Aboriginal way, you know (can't hear) but that's all I can say, you know. When we sing (tribal song) to the white people they give us money we take from them, not only for that but for everything. But us Aboriginals we will go on living the same king of life we lived before.

Mr EDE: who have been boss for this country, looking after ger, grading up all place here, Nyirripi, from back. I remember we use to camp the other side, just over there, just over that sand dune there. That is right. Well that is the same like this constitution too. First time now we coming up. You cannot see anything there, just like that sandhill was before.

Mr JAPAJARRAY: Yes that is right.

Mr EDE: But, we are going to stick with it, the same as you been sticking with your country and growing up this place here. Gradually, we talk about it, come back, go to every little place, talk a little bit more about it and suddenly you start to see him after awhile. You see a little bit here and a little bit there and you can talk about them: 'Oh no, that should be moved around there and that should be a bit over there'. We grow him up like that. People boss for the constitution. You mob

boss for constitution. Every mob can talk about them, what sort of thing you like in them. Give them to Paul to write down to send down off to us or somebody can put them on tape recorder and send them off to us. Okay?

Mr JAPALJARRAY: Okay. Yes.

Mr EDE: We close off this meeting and we will talk about things.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

PAPUNYA — Monday 10 April 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 Mike NIELSON
Ms Alison TOBBY

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

Mr HATTON: Could I start talking. My name is Steve Hatton and I have got with me Brian Ede and Col Firmin. We are from the Northern Territory Legislative Assembly. Our job is to go round to talk to people about writing a special law for the people of the Northern Territory. We are all members of the Legislative Assembly, the Northern Territory parliament. If you look at the back of this book we gave you, you will see a page like that. It has got a picture of all of the members of our committee. In the government, lots of times we argue among ourselves. The Labor Party and the CLP argue about a lot of things. This time, it is different. This time we are both saying the same thing and we are working together. On this committee, there are 3 men from CLP and 3 men from the Labor Party. Brian Ede from the Labor Party is the deputy chairman of the committee. Col and I are CLP. I am the chairman. We are sharing all the work on this one.

You have heard lots of talk about the Northern Territory becoming a state. Some people think that is a good idea and some people think it is not a good idea now. We are not asking you if you think the Northern Territory should be a state or not. That is not the question. You must be very clear that we are not asking you if you support statehood. We are not asking you if you are against statehood. That is another question for another day. What we are asking you to think about is that, one day, whether it is next year or in 5 years or in 10 years or even in 20 years, the Northern Territory will be a state. But, before you can even think about that question, you have got to say what sort of a place you want the Northern Territory to be. What sort of law should you have? All the people need to sit down and think about what sort of a place they want the Northern Territory to be and write a special law, not one made by politicians but a law made by the people, to go on for a long time, where the politicians cannot change it. It is a law that tells the politicians what they can do and what they cannot do and protects the rights you want to protect and you do not want a government to play around with. You want your right to vote and you do not want a government to take that away. You want your land and you do not want a government to take that away from you. You want your culture and your language. You do not want government to be able to play with that. You make a special law for those sort of things that the government cannot touch. The only people who can change that law are all the people.

We call that a constitution. It is like when, in this community, you set up a community association, a community council. The first thing you had to do was write the rules, your constitution. That is the first thing you have to do. After you do that, you then start to make it work. You say what the council can do and what the council cannot do. You say it will do this job, that job and your rules tell how you elect the council. The same thing for the whole of Australia. They have a constitution for the whole of Australia and it says what the government can do and what it cannot do. It says what the courts and the judges can do and cannot do. It makes those sort of really important laws. I know that Aboriginal communities say that they look at the white man's law and it is changing all the time. People ask why it keeps changing because Aboriginal law is there forever. It keeps going. This is one sort of white man's law that does not change. This is the foundation; it is the rock. You build up your place. It is where you protect your rights as people and stop the government from being able to touch them and hurt them. Our job is to go around, talk to people about this and to say: 'We want you to come and tell us what sort of things we should be writing into this law and what sorts of things you want to put in this law'.

Now I am not going to tell you that you can do this and you cannot do that. You have got to tell me. Not today, because you need to think about this. It is very important because, when we write this law, it is a law that is going to be there, not just for us. It will be a law that will make this

Northern Territory a good place for our children, our grandchildren and their children. It is a very big law. It does not change. It sets the ground rules. It sets the rights. It puts things there that protect us as people. All of us. We must work very hard to make sure it is a good law because, if it becomes a bad law, it is a bad law for a long time too. We have got to really think hard, all of us, talk to the community and think what we want in there and what we do not want in there.

This book is a start to give you some ideas of different things that might go into a constitution, into this law. But that is just a beginning. Our committee has been working now for 3 years on this. When you look at that and you say, 'That doesn't tell me much', then I give you this one and this one. There is lots of work. We looked all over the world. We looked in different states of Australia, we looked in Canada, in the West Indies, in Africa, in America - all the different things they put in their constitutions. We put them all down here and all the arguments - this is good, this is bad. There are things in here that I do not agree with. There are things in here you probably will not agree with but we put it all there so everyone can see all the different things. You might look in here and say that we have forgotten about something else. That is what we want you to tell us.

We are not going to do that quickly, are we? We are going to need time. Your community is going to need time to read, to think, to talk. The council needs to talk as a community. Talk to other communities. Get an idea of what you want. We will come back later this year, maybe in October/November. We will spend time, sit down, and you can tell us then what you think. If there are things in here you are not sure about, things you want to find out more about, you go through Neil Bell, Brian Ede, myself, whoever. Ring up our committee or write to us. We will send somebody out to talk to you or send you more information so you can take that away too in order to learn and think about it.

When you are ready, you can tell us what you think. You can have your say. We are doing this all over the Northern Territory. We have been up to VRD, we have been out to Kintore and Docker and Finke. We are going up to the Gulf and to Arnhem Land. We are going to all the big towns. This time, we are going to 59 places to encourage people to sit down, think about this and have their say. When you do all that and when we come back and you tell us what you are thinking and all the different people tell us what they are thinking, our committee's job is to sit down then and look at all that and write out what we think all the people are saying. We prepare what is called a draft constitution.

But, we are asking you a second question because you cannot trust the politicians only to do this job. It has got to be done by the people. This job is a job for the people to do. We want to put together a big committee of people from all over the Territory and their job will be to take our work, all the things you have said, all these things, and go through that book again and say: 'Yes, we like this. No, we do not like that'. They will shape it up again and talk it through it again. When they finish their job and they have got what they think is the right one, then it will go out to all the people to vote on. If the people vote yes, then that will be the law. If the people vote no, we will have to go back and start again.

We will keep working until the people say yes. The people have got to say yes, not the politicians, not the government. It is the people's law and it will never be able to be changed except by the people so it is a very strong law. As I said, it is a law where you get your rights. We said it can be the sort of thing where you protect your culture, your language. It can be the sort of thing where you can protect your land. It can be stronger even than the Land Rights Act. But you have

got to think about that. You have got to talk about that. You have got to work out what you want because this Northern Territory is your place, my place, my home, your home. Together we have got to start writing a law for the people so that we can all live together in this place and live together with respect for each other and protect our rights from politicians. You cannot trust the politicians with your rights. We put it so only the people can touch that. And a constitution does that.

The Northern Territory is the only place in Australia that does not have one. The Canberra government has got one, Queensland has got one, Western Australia, South Australia, New South Wales, Victoria and Tasmania - they have all got their constitutions. We have not. And the federal government can do what it likes to us. The Northern Territory government, under the Self-government Act, can do something too. This way the Northern Territory people make the rules and that is a strong thing. It is a law that will last a long time. As I said before, we must do this job because, whether it is in 5 years or in 20 years, one day we are going to become a state and we have got to have this sort of law in place so you know what you have got and what the government cannot touch. If one day we become a state and we have not done this job, then maybe the Canberra government will give us a constitution and we do not get a say and that is not good. It has got to be the Territory people who make these rules. We have got the time now. We should use the time to think as Territorians what we want.

I just ask you please, for your sake, for your future, for your children's future and your grandchildren's future, to take on this job, talk seriously, think and have your say about this. It is the most important law in the Northern Territory. That is what it will be. I ask if Mr Ede would like to say something.

Mr EDE: I am Brian Ede. My electorate is all that area out from Nyirripi, Papunya, Lajamanu, around Willowra, Napperby and right around that country up around Mt Allan, going all the way east right across Lake Nash, Ali Curung and all that area around there. But, as well as that job of looking after all that mob around there, I am also Deputy Leader for the Labor Party for the Northern Territory. That is why I came on to this committee for the constitution. I do not think we should be talking about statehood now. I do not think we can talk about statehood because what is that statehood? We do not know who has got the power. We do not know what it is going to be? We have got to talk first about what that statehood is going to be, who is going to have the power? How we are going to make that thing work so that Yappa mob and Kardia mob can work together? How can we ever say they are not fighting each other and that we are not having one law coming up this way and another law coming that way and all the time the 2 having trouble like that? How can we make it so that everybody goes together - 2 laws together like that going side by side? That is the only Northern Territory is going to be strong. And to me, the best chance to make that happen is through our constitution. We say a constitution first.

Now a lot of Aboriginal people say to me: 'Look, we want the federal government to look after land rights, we want the federal government to look after sacred sites. We do not trust the Northern Territory government'. I understand what people are saying from that angle. I do not trust Northern Territory government. I do not trust CLP and that is why I gone Labor party. But, I don't trust the Liberal Party, National Party down in Canberra either and they might change over from the Labor party so I am frightened for what might happen in Canberra as well. What will happen if the other mob get in there and they take away land rights and we have got nothing to help it and make it strong? That is why I am thinking about a constitution for the Northern Territory where we can put

in those things here as well and we can put in there how we are going to make land rights really hard to change.

What are those things that we want to make hard to change? We know people want to hold on to that land. We know that everybody wants to look after sacred sites. We know about law. That law come down thousands and thousands of years and people want those things to be strong. Now they are strong for Aboriginal people; they never change. But, the Northern Territory government or Canberra government, they can make a law and change them again next week and change them a month later. They can push that law a bit this way or try and make it hard this way or wherever. It can go all over the place. But, in a constitution, we can put it in there so that they cannot change what is in that constitution unless everybody agrees or we can make it 90% have to agree or half have to agree or whatever.

Now this constitution that we are doing now, it could be a real bad one. It could be really rubbish. It will be really rubbish if we do not all get in there and look at it and work hard on it because, if we do not do it, a couple of lawyers and politicians up in Darwin are going to write it. They are going to write it and they are going to say, 'How are we going to write this one?' It is going to be how they want it from sitting down in Darwin looking at all that town mob and all the problems they have got with going out in the northern suburbs and going around the beach and off to the pub after work. They are the sorts of things that they are going to be looking at. They are going to be looking at it from Kardia way only.

If we get involved, they cannot go and make this constitution if all of the people from out bush, all the Aboriginal people are saying: 'No, that is wrong that constitution you have written up. That is no good'. If people sing out to Canberra and everywhere and say it is no good, they will not be able to push them out of sight because there will be a lot of people in the Northern Territory standing up beside them. I know people even on the CLP side say that we have got to have a constitution that everybody agrees on. When we agree from Yappa side, Kardia side, and everybody agrees on how that constitution is going to be, that is how the Northern Territory can be a strong place going forward for our children, our grandchildren, everybody.

If we put into this constitution things that we do not agree on, we are going to fight and they are going to keep going. It might take us 5 years to work that constitution up, or it might take us 10 years. It does not matter. It does not have to be done in a big hurry. That is why we do not want to come out here and say, 'This is what we are going to do, and write it down and give it to you today. What we are doing today is coming out and saying: 'These are some of the things that everybody has to think about if we are going to be involved in this one. Think about them and we will come back and talk about them, write them up the first time, change them, send them out again, put them in language, put them out in tape, put things on letters, newspapers, send them around and people talk back'. That is what we have got to be doing. Little things might be changed. People might argue about one little sentence. They might say that they do not want it that way and somebody else will say that it should be that way. We will be arguing about that. That is all right. We can keep talking and talking about it for years. There is no hurry because, once we have finished it, it will be really hard to change forever and ever. We have got to get it right this time.

That is why I am part of this, because I believe that. I know that a lot of people right around the Northern Territory are saying the same thing. They are saying that it is a hard thing, that they are

frightened of statehood but this one is first. Statehood is something that we can talk about after we get this one right. Let us get this one right first - the constitution. We can talk about it.

Mr HATTON: We are here to talk to you and to get you to talk to us. If you are not sure what we are talking about, ask us a question. If you want to tell us something about what you think, do that. I cannot say strongly enough that this is important. It is important for you. This is the way you make a law that does not change.

Mr NIELSON: (Inaudible).

Mr HATTON: We are not coming here for you to tell us what you think should be there. If we can go away today and you say that you want to sit down and talk about this among yourselves, we are happy. We have done what we wanted to do. You do not have to tell us now. I would rather you did not. You go away and think. It is to important.

Mr NIELSON: You just want to talk.

(Short discussion that is partly in Aboriginal language. Does not appear to be directed to the committee).

Mr HATTON: If you want us to send you more information, we will do that. If, when you meet, there are some things that you are not sure about, give us a yell and Brian Ede or Neil Bell or myself or someone will come out to talk to you and then you can go away and think more about it.

Mr EDE: You want to think about which way you want things going backwards and forwards to us. You might want to have a meeting and put things down on tape. You can put them down on tape in language and just send them into us and we can get someone to interpret them and write them all out like that. We do not want the old people to be cut out because they find it hard to speak in English or something like that. We want the old people to be able to tell their stories and put them down on tape and we can get them all written out and they can be part of it too.

Mr NIELSON: Yes ...(Inaudible).

Mr HATTON: The only way you can do that is through a constitution.

Mr EDE: What is the best way for us to send things back? Should we get things in language and put them on tape or send them out like that or in a newsletter?

Mr NIELSON: No, unless you and Neil Bell can come back.

Ms TOBBY: You and Neil Bell come back and tell ... (Inaudible).

Mr EDE: We can work it that way, but I thought we might send out tapes as well so that, if something comes up and somebody is saying something particularly out in Arnhem Land, then you will be able to hear what they are saying and they can hear what you mob are saying.

Mr HATTON: But, as a committee, we think we may come back towards the end of this year. You have plenty of time. It does not have to be done in 2 or 3 weeks. We are thinking of maybe October or November. You have got plenty of time to talk and look at all the different things. No rush. I would hate to come back in October and say, 'Oh, I forgot to do that job'.

That book there has got some basic ideas. This is the important one because it has a lot more stuff in it. If you want to ask how the parliament will work, you look in here and it asks you lots of questions about how many politicians you should have, who has the right to vote, who can stand for elections, what they can do, how long there is going to be between elections - all those sorts of things. You protect your rights. It says what the judges can do and what the courts can do. Can the Administrator sack the government and, if so, when? There are lots of funny questions like that. They are all talked about in there. There are a lot of extra things in here too. It talks about things like your rights. Do you put land rights in there and, if so, how far do you go to protect land rights? When you are talking about this, you have to think not only for Aboriginal people but you have to think for the non-Aboriginal people too. To the people in Alice Springs or in Darwin, I say that they have to think about the Aboriginal people too. They cannot just think about the white people because we have got to work to become one place.

(Inaudible discussion obscured by what sounds like a radio).

Mr HATTON: I want to look at some of the things they are doing in Canada and other places. I believe they are doing some things over there. I want to go across there in September.

Mr EDE: Papua New Guinea has always had a recognition of customary law. They have a law over there that says that they have to recognise customary law. That is something that we have to talk about here to see whether that is going to be part of it.

Mr NIELSON: That is right. We should have customary law here too.

Mr HATTON: We are talking about the committee maybe going up to Papua New Guinea to have a look at that. We are trying to learn as much as we can too so that, when you ask questions, we have some information to help you. This job has not been done in Australia for 100 years. When they made the whole federal government and the Australian Constitution, it was 1901 when they finished it. It was 90 years ago when they finished the job. Over 100 years ago, they started it. All the states made their constitutions over 100 years ago. This is a new thing. Do you remember that, last year, you had to vote in the referendum? That was about the Australian Constitution. Everybody said no and therefore the federal government could not do what it wanted to do. The people control the law. I guess we have said all that we need to say. Thank you very much.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

YUENDUMU — Tuesday 11 April 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 Dennis WILLIAMS
Mr Ted GRANITES
Mr HARGREAVES
Mr MARSHALL
Mr Jampbajimba ROSS
Mr Paddy NELSON
Mr Francis KELLY
Mr George GARDI
Mr DARBY
Mr Paddy SIMS
Mr Eddie ROBERTSON

NOTE:

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

Mr EDE: I just want to mention first of all the other people from the parliament that are with me. I have got Steve Hatton who is the chairman of the committee. I am the deputy chairman. With us, we have got Colin Firmin who has one of those electorates up in Darwin. He is another member on the committee. This committee has got 3 people from the CLP side and 3 people from the Labor Party side. Also from the Labor Party side, we have got Wesley Lanhupuy and Dan Leo and they are back up in the Top End at the moment, along with Rick Setter who is another member from the government side.

I want to just talk about what the committee is about, what the whole constitution thing is about because a lot of people have been getting a bit mixed up about what we are trying to do. The constitution is a law of the people. It is the law that the people have to say what the politicians can do and what they cannot do. What I am on this committee for is not so that we can go and shoot straight into statehood. For me, statehood is something that we have got to talk about afterwards. It might be 5 years or 10 years or 20 years or something before we might be talking about statehood for the Northern Territory. But, some day, we are going to be talking about statehood for the Northern Territory. We are not worried about what time that is going to be now. That is something for later on. But, before we can talk about statehood, we have got to work out how all the people of the Northern Territory are going to sit down together and work together to make the Territory a good place for ourselves, for our children, for our grandchildren and everybody like that. How are we going to make that work out so that Yapa and Kardiya and everybody can work together? That is the most important first thing before we start talking about statehood and that is what we want to put into this law that we call the constitution.

Everywhere else has got a constitution. Queensland, South Australia, the federal government, Western Australia - everybody has got a constitution except the Northern Territory. The constitution is that law that says how far the government can go and what the things are that they cannot muck around with. They have got to write them up in the constitution. Aboriginal law is something that has been going on for thousands and thousands of years. It is not a law that goes changing all the time. It does not change. It does not say: 'Righto, we will go a bit this way and a bit that way'. It is not like Kardiya law. And one of the things people always complain to me about is that they say: 'Whitefella law is always changing. You come out and you talk about it going this way and then it is going that way'. That is different from Aboriginal law. Aboriginal law is always the same.

Well, this law, this constitution, is a little bit like Yapa law. It does not go changing all the time. When you have a constitution, the constitution is not easy to change. You cannot just get up in parliament one day and say: 'oh, we are going to change this law. We are going to make it something else'. It will have to come back for all the people to vote on before they can change it. Remember last year, you had that referendum and everybody was asked to vote yes, no, yes, no. In the middle of last year, wasn't it? That was the referendum for the federal Constitution. Even though the government wanted to change that constitution last year, not enough people said yes and so it could not be changed. It is the same now as it was before.

I am thinking that a lot of Aboriginal people will agree with me that what we need for the Northern Territory is a constitution that says the things about land rights, Aboriginal culture and sacred sites that we do not want to be changing all the time. How can we protect those things and

Aboriginal law against some government coming along and changing them later on? The only way is to put them in the constitution and make it hard to change so that they cannot be changed unless Yapa people agree that something should be changed. They say: 'That little bit wrong over there. It should be changed a bit that way to make it better'. Okay, it can be changed if everybody agrees. But, get it right first time and get it so that it keeps on going so that everybody knows where they stand.

Everybody knows the law behind land rights. That is traditional Aboriginal law that has been going for thousands and thousands years and all the sacred sites and all those things have been going on up until now. Since Gough Whitlam's time, it has been coming in that that has been law for Kardiya law as well. After Gough Whitlam left, Malcolm Fraser backed them up and now Bob Hawke is in there in government and he has backed them up and so it has been keeping on going. But, we do not know what is going to happen in 10 years time. Maybe if Bob Hawke and all the Labor Party mob get cut down in Canberra, there might be someone come in and say: 'Hey, we want to change that law. We are going to change that land rights law'. How are we going to stop them? I reckon the best way that we can stop them is to make sure that we write that land rights law into the constitution of the Northern Territory so that, even if they want to change them down there, our Northern Territory constitution holds those biggest things about land rights in that law up here so that they cannot be changed just by some mob in Canberra. They have got to have a full referendum and everybody up here has got to agree to it as well first up.

So that is why I am saying that it is important to talk about this one today. That is why I am on this constitutional committee because I do not want to be just going along and having some mob of lawyers and clever people up in Darwin writing up a constitution for the Northern Territory when they do not know about what the really important things are from out bush and they do not know what is really important for Yapa people right around the Northern Territory. That is why this committee is going right around the Northern Territory, going out to all the corner places. We were at Nyirripi yesterday and we were at Papunya. We are going to every place just to talk to people, to say that this is important, that this is something everybody has got to talk about, that everybody has got to think about and decide how we are going to have a constitution which can have all the important things in it that we do not want to be changing all the time. Things that we do not want future governments to be able to change, things that will tell us about how we can all live together, Kardiya law, Yapa law, the 2 of them together to make the Territory a strong place and a good place for our kids and our grandchildren.

That is what we are coming around for and that is why I am on it because I do not want that mob up there just to make it on their own. We cannot just say, 'Oh, we are not going to be part of that because that is too boring and I do not understand', and just walk away from it. If we do that, that mob will go and write it up. And then we come back and say: 'Hey, we did not agree to that'. It will be really hard then. The best way is if people are talking about it and everybody starts looking at things as they come up and say: 'That is that thing that we think is really important and that should be in the constitution and this one can come back a bit and we can have it as just an ordinary law which they can change later on'.

I do not want to talk any longer right now. I think Steve Hatton might want to say some things to you and then we can open up the meeting and people might want to say: 'Okay, I don't

understand what you are saying. What is this constitution business anyway?' If we are not explaining it properly, people should start asking questions and we can talk backwards and forwards and that way we can try to make it clear about what it is about. We do not want people to be talking yet so much about what is going to be inside or how we are going to do it. We can work that one out later but we have got to know what we are talking about first. That is the main thing we are trying to do today and to tell you how important it is.

Mr HATTON: Thank you, Brian. My name is Steve Hatton. I am the chairman of this committee and we have got to go around the Territory. As Brian said, you look at the things in the Northern Territory and there are things that are really important, things that people do not want the government to be able to muck around with. It might be land rights, it might be sacred sites, it might be your right to vote or it might be your right to have somebody elected. There are all sorts of different things that you say are too important, that you cannot let the government have the right to change. When you get those really important things, you have got to have a special law that is the boss over the government. It is like a law that is there forever. It is the boss over the government, the boss over the courts, the boss over everyone and that law has got to come from the people. The people must make that law and the people must hold that law. And when we do that, we call that a constitution. This is an important law. It is a law that says to me and to the government: 'Yes, you can do that, but you cannot touch that. Leave it alone'. And if I try to touch it, you can chuck me out. I am not allowed to change it. This law is my boss. It is everybody's boss. It is like your law. You cannot change your law. It is there. The same thing with the constitution except, in our way, if all the people all over the Northern Territory, if they all say yes there should be a little change, then it can be changed, but not otherwise. The government cannot change it, only the people.

That is why it is so strong. It is a very important law. It is the one that is there. It is there always. It is the foundation on which you build up the place you want to live in and how you want it to work, how you protect people's rights, how you make it so people can live together and grow together. You make it how we can learn to live together with respect for each other, to make one future for us all. This law is so important because it is going to be there for a long time. It is going to be there to affect our children. It is going to affect our grandchildren and their children. You cannot just muck around with this one. You have got to think really carefully and think hard. We have all got to talk, people all over the Northern Territory, and get everyone talking about it and work it out all over the place so that, when it is finished, everyone says: 'Yes, that is ours. That is a people's law. That is the one we want. That is how we want this Northern Territory to be'.

Our job is to help the people to do that job. We are not going to do it for you. The people have got to do this one. We are only there to help you and guide maybe but, in the end, the people have got to do it. This is how we do it. First, we are going around now saying: 'Look at this. You must read this and learn about this. Think about some of the things'. We have done a lot of homework already. Before we came out here, we have been working already for 3 years. We looked all over the world, at different things they put in constitutions. We put that in this book. There are lots and lots of different ideas in there. There might not be everything. There might be some things which we forgot about but there are lots of things. We looked in America, we looked in the West Indies, we looked in Africa, we looked in New Guinea, we looked in the other states in Australia, we looked in the Self-Government Act - we looked everywhere to come up with ideas.

There are some things in here that I do not agree with. Maybe there are some things in here that you will not agree with but you can have a look at it and say: 'Yes, I agree with this. No, I don't agree with that'. You make your own thinking on that. You talk among yourselves and, when you have had a good chance to think and talk about it, if you want more information, somebody will come back and help you get more information so that you can think about these things properly and come up with what you think should be in there.

We will come back and you can tell us what you believe should go in there and we will do the same thing all over the Territory, in the white communities and the Aboriginal communities. When we have done that, our job is to try to write something about what the people say. That is not the finish; that is just the beginning. We write that and there are questions in your mind. Did they get it right? Did they listen properly? Did they hear what the people were saying? So what we do after that is form a big committee of people from all over the Northern Territory, people from the desert country, people from the Top End, Aboriginal people, white people, women, all sorts of different people, representatives of people from everywhere in the Territory. They all meet, maybe lots of times, and look at the work that we did. They will say: 'Did they get it right?' They will perhaps change it and fix it up so that they think that it is right. They will work through that carefully and go back to the people, backwards and forwards, until they think they have it right. When they have finished, they have got what we then call a proposed constitution, but they are still not finished. Then we go to stage 3. When we have done all that, we then go and ask the people to vote yes or no. If the people vote yes, then we have got the law. If the people vote no, we have to start again. We start talking again and we keep talking until we get something that the people want. And then, it is everyone's law, the people's law, and that becomes the boss.

That is the job we are doing. All we are here today for is to let you know what we are doing and to get you to start to think about this and talk about it as a community. Think about these things. We will leave the books behind for people to read. If you want any more information, you can contact Brian Ede or ring us up on the telephone or write to the address there. We will send you whatever you want. We will come back if you want to talk about a particular thing. That is fine too. We want you to have the chance to properly understand this and to be able to talk properly about what you think should be there, what you think should not be there. In that way, people all over the Territory can build a good law and make the Territory a good place for our children, a good place for our grandchildren. That is what we all want and this is the best way to do it.

Brian Ede said some things about land rights. I am not going to talk too much more about that except to say, as Brian said, at the moment you do not have a protection for land rights because the politicians can say yes or no in Canberra. They can change an act of parliament and they can change the Land Rights Act. There would be a big fight, but they can still do it. You put those sorts of things in the constitution and they can't do it. So it can be stronger, and that's how people all over the world protect their rights - with a constitution. We must do that here for the Northern Territory too. That is what we are here to say. If you want to ask us anything about it or about what we are going to do, please ask us now. If you want more information, ask us.

Mr DENNIS WILLIAMS: Yangka kankulu know-mani nyampu, nyampu kujakalu-ngalpa ngarrimi law yangka kujakarlipa ngalipa change-mani or hold-mani karlipa law, ngalipa-nyangu jalpi yapakurlangu nyampu NOrthern Territory Constitution kujakalu ngurrju-mani nganta jinta-jarrinjarla

wurlatirli yapangku, kardiyarlu, wurlatirli. Constitution means yangka wurlatirli jinta-jarrinjarla nyampu kalu-ngalpa payirni wurlatirli wurlatiki and make it right Northern Territory-ki wurlati, jinta-jarrinjarla nyampu-piyarlaju yungulu yirrarni everything walipiyarla pukungka, ngulaku kalungalpa payirni. Law kujakalu change-mani (can't hear) government-murlu ngulaju should be ngaliparlu wurlatirli yapangku, wurlatirli Northern Territory-rli walypalirli, yapangku wurlatirli law-ju change-maninjaku. Kujanya kalu nyampuju Kalu wangkami. Constitution ka ngarrimi ngulaju jinta-jarrinjarla jinta-mani wurlatirli mirdingirlaju. Yaa, purda-nyanyi kankulu, nyampu kuja jalangu wangkaja? No, some of the people don't understand nganayiki tumaji kardiya kalu wangkami (can't hear) English-jiki understand-jarrinjaku Constitution mean yangka jinta-maninjarla jinta-kurralku yirrarni ngula. Right so (can't hear) yapangku ask-maninjaku nyampurnalu (can't hear) yimiki ngananyiki what's going to happen to the land right (can't hear) when a state come -- ngulaku.

Have you any idea about this law they are telling us about? The one that we are going to change or are going to keep the same. This is our own Northern Territory constitution that they said they are getting together and making - everybody, Aboriginals and white people - everyone. The constitution means that everyone gets together and they all ask us all and make it right for the Northern Territory. They meet together like this so they can put everything into the book - that is what they are asking us about. The law they are changing (can't hear) the government is, it should be all of us Aboriginal people, all the people in the Northern Territory, White and Aboriginal who should change the law. This is what they are saying here. Constitution means to get together in a meeting to talk and come to an agreement. Yes, do you people understand what they've said here today? No, some of the people don't understand when the white people talk. (can't hear) To understand only in English. Constitution means when they make an agreement, right so (can't hear). If Aboriginal people have a question to ask these people (can't hear) as to what is going to happen to the land rights when Statehood comes - that is what we are to ask about.

UNIDENTIFIED JAPANANGKA: Nyampu nganayi I don't drink, nuwu junga nuwu kanyarra jungangu yimi-ngarrimi Japanangkarlu ngajuku-purdangkarlu.

He's not explaining properly. Nyampuju nganayi Institute (can't hear) nyiya yangkaju Constitution nyampuju? Nyampuju kurdiji ngalipaku.

Kajirna nganayi Northern Territory government-rlu kajilpa (can't hear) kalu mardarni you know (can't hear) law kalu mardarni walya-wayirlangu kala kajilparlipa ngaliparlu mardakarla Constitution, wali kalakalu-ngalpa law mardarni palka nyampurlangu marda you know Frank-rlangu (can't hear) kalaka marda beat-mani nganayi-rlangurlu Liberal-rlangurlu you know.

Wali kulalpanngu nganangu yalpi-mantarla nyuntuju, but government-rlu yali Canberra-rlaju kalaka ngarrimi, yawu yimiwayi nyampunyajana walya-kurluju waja yampiyajana land right.

They bin change him nganayirlaju government-rlaju CANberra-rlaju but nyampu kajilparlipa mardakarla Cosntitution nyampu kajilparlipa mardakarla, kajilparlipa wangkayarla wurlati, kurdiji

Yungurlipa-nyanurla mardarni Northern Territory-rla ngulaju ngula-kurlu no matter might be might be some other of Labour Party when we vote for if they beaten, will we got that law behind you know Constitution Northern Territory-rla yangka law way-ki everything-ki ngulaku. Law yangka boss nganayiki not only natilpa nganayi boss-jariyarla Canberra-rla, nuwulpa boss-jariyarla Cosntitution-ku yaliki nyampu-kurluku kajilparlipa law ngurrju-mantarla Northern Territory-rla yapapaturlu wurlatirli kajilparlipa nyampurla Constitution kajilparlipa ngurrju-mantarla, that mean nuwulpa yalirli nuwulpa change-mantarla yalirli Canberra-rla walku, kalakarlipa that law will still be there.

Yaa! only-kijilpankulu yapangku nyurrurla kajilpankuku change-mantarla manu No walku waja. Kala kajinkili law nyurrurlarlu, kajinpalu ngurrju-mantarla that's right nyampuju not only statehood-ku murnma, kala nyampuju statehood-ku-ngarntiji. But only Constitution yangka nganayi you know kamparru kamparru ngurrju-maninjayani kalu, Constitution first ngaka statehood-ku-ngarntikiji murnma. Kala nyampu law kujalu ngurrju-manu, you know, kamparru-wiyi (can't hear) kurdiji kamparru-wiyilpa mardarnu (can't hear) Cosntitution kardiyarlu kujakalu ngarrimi law. Kurdiji-wiyi kamparrurlu ngurrju-maninjaku. Ngulakurlupa palka-kurlu-wiyi wangkamiyi (can't hear) long as we got that kurdiji behind palka, Constitution nyampu-now kalu ngarrimi kuja-now.

This here, I don't drink, no truly, Japanangka, my brother isn't telling you properly. He is not explaining properly. This whatsaname institute (can't hear). What is this Constitution? This "kurdiji" is ours. If I like... The Northern Territory government, if it (can't hear) they have, you know, (can't hear) they have a law for the land, for example. But if we have a Constitution, well they might keep the law for us like this one perhaps. See like if Frank (can't hear) got beaten by the Liberal party, you know, well no one can help you, but the government in Canberra can tell him, "yes, anyone leave them with their land, leave them their Land rights".

They have changed the law in the government in Canberra, but if we have this constitution, if we all talk, we want to keep our "Kurdiji" young man's ceremony in the Northern Territory so with that no matter might be, might be, might be some other than the Labor Party when we vote if they get beaten, well will have that law behind us, you know, the Constitution in the Northern territory. That Law for everything, for that. That Law is the boss for like, not only, it can't be the boss in Canberra, it can't be the boss for that Constitution with this. If all we Northern Territory people make a law, if we here make a constitution, that means that one won't change it in Canberra, no. We would still have that law.

Yes, only if you Aboriginal people change it or not. But if you lot make the law, that's right. Not only for statehood - not yet, but is in preparation for statehood. It is only the Constitution that they make beforehand. They go around making it before (statehood), like this law, now, first (can't hear). First of all it had the "kurdiji" law. (can't hear) Constitution is what whites call a law. To make the

"kurdiiji" first. We should talk about that one first (can't hear) As long as we have got that "kurdiiji" behind us first, Constitution is what they call this.

Mr GRANITES: White person, I would like to ask, Steve, what is going to happen when the Northern Territory becomes a state. What could happen to the Land Rights Act in the Northern Territory? I ask that question to you, Steve.

Mr HATTON: What's going to happen to the Land Rights Act? When we become a state, we believe the Land Rights Act should become a Northern Territory law instead of being a Canberra law. But, it would still be a law for the land. A lot of people have been saying that they don't trust this Northern Territory government mob. They say that they want to protect the land rights so that they cannot muck around with it. Well, that's what you put in the constitution, to protect them. Do you understand that?

When we become a state, we have got to learn to grow up. I say this to many people. When you are a child, your parents are there and they help you and they guide you and they teach you. That is good and you learn. When you get a bit bigger and you become a teenager, you start to learn more things and do some things for yourself but your parents are still there to support you. One day, you have got to stand up and become an adult and make your own decisions for yourself. The same thing for the Northern Territory. We were like a little child up until 1978 and the Canberra government did everything. It made all the decisions for us. After 1978, we got self-government and it gave us some things that we are allowed to do, but it is still there behind us to support us or sometimes maybe to give us trouble. One day, we are going to have to stand up and say that we are like an adult. We are going to have to stand up and make our own decisions for ourselves like a grown up does. But, before we can do that, we want to know what sort of place we want it to be. That is where we write this. We write the rules about how we want this place to be. It is a matter for you. Would you rather be a child or would you rather be a man or a woman? You would rather be grown up. It is important. The same thing for the whole Northern Territory, to have your rights and make your own decisions. That's the best way to do things. It is the same with the land. It is Northern Territory land. It is not Canberra land and it should be looked after in the Northern Territory. You protect them by putting them in the constitution so that people cannot take away the really important rights.

Mr EDE: What did I say before about land rights? I think it is really important for this constitution because that land rights, sacred sites, culture, that is the ground that we stand on, that is the Northern Territory. If we can't be sure that that one is strong there, what are we? We are something that the wind blows away. We have got to get that one right and we have got to have that one really strong, really in place, so that we can then talk about everything that goes on from children to grandchildren.

At the moment, that is only strong as long as the government in Canberra agrees. Now, every time somebody comes along, we have got to worry about change of government or what name we are going to say and fighting and everything about it. That is hard. If we don't look at how we are going to work this one up for after statehood, if we don't protect things like land rights and sacred sites and all those things in our constitution, we will not be able to go crying back to Canberra and we'll end up not being able to win them here in the Northern Territory. By putting them in the constitution, we can say that these things are the things that we believe in, these are the

things have that have got to go on for a long time and, if anyone wants to talk about changing them, they have got to come back and ask everybody in the Northern Territory. The people can make it that you have to have 90% of the people to agree to change before they can change or they can say 70% or 50% or whatever. It can't be under 50%.

Don't think that we are coming out here with these green books and white books and that we are waving around that constitution. We have not even started writing the constitution yet. These ones are just stories about different things that might be in a constitution or might not be in a constitution. We are asking you to think about whether they should be in there or should not be in there. Which things should be in there because you want to make it very hard to change them and which things are just ordinary?

What I would like people to talk about is how can we make it easier for old people and for everybody to be involved in this. What should we be doing? We have got to go all around the Northern Territory. We just go all around and come back and we will only be here every few months. What can we do in the meantime? Should we be sending out tapes in language or should we be sending out more books like this one or should we be sending out field officers from government departments or how are we going to do it? I would like some of the people here to talk about that. Should we be putting it on your own TV station all the time? How can we get across all the different ideas and how can everybody here get their ideas together so that they can get them back to us so that we can hear them? It is no good it just all coming one way down here. We want everything coming back from you mob to us so that we can put them into that and get it right. Anybody got any ideas on that?

We could do this one now to go on TV so that people who were not able to come to the meeting can hear everything about this one. But, we have got to think for next month and the month after. How are we going to keep on going? How are we going to get more things out for everybody? I was thinking about maybe putting tapes in language or maybe we could work together with the Walpiri Media Association to develop some ideas. What about that Aboriginal video magazine. Are you mob using that down here much? Francis, can that video magazine go on to your TV to be rebroadcast? We would have to get it into language, eh?

UNIDENTIFIED: (Indecipherable)

Mr DENNIS WILLIAMS: Wangkayalu! (too many people speaking)

Yangka yarnununju-kurlulu, Warlpirirli Warlpirirli write-maninjarla yirraminjarla yali-ngirli wurlatilki yali-kirraluku kanjaku there that nganayi yingalu read-mani yali, kanyi yingalu nyampukuju karlipa-nyanu nyampuku kalu-ngalpa wangkami nyanungu nyampu Northern Territory kaji nganayi State start-jarri ngulaku we got to think about ngalipa, pipangka karlipa yirrami, yalingirli ngulaka yali-kirraluku kangyi (can't hear) video-kurraluku kalu yirrami wurlatiji nyampu kujakarlipa wangkami nyampurla jalangu mirdingi wurlati, right?

Does anyone want to speak up? We want those women who known Warlpiri should read it and write it all down what we've said about Northern Territory

becoming a State, we are going to think about it and write it down on the paper from there they are going to put it on video all the things we've said here today at this meeting, right.

Mr HATTON: I do not know whether you want to talk any longer. Does anyone over here want to raise anything?

Mr EDE: Just one way we were talking about because a lot of people have not got TV or have not got video and it is really hard for them to find some way of doing it. We are talking about getting some ordinary cassette tapes and putting them in language. Mix up people talking in language about that story and some country and western music and some other music and stories so that people can listen to the songs and, at the same time, hear about what is happening for constitutional development. A lot of people have got tape recorders by they have not got TV. The people might be able to listen to them that way. Do you reckon that that is a good idea? Okay, then we will try and work them that way.

Mr NED HARGREAVES: Yapa-patu nyampu kujakankulu nyinami. Nyampu-patulu wangkaja nyampu-wayi constitution-wayi. Nyampungka pipa nati manyu, nati jirliwirri-maninjaku walku, right now kardiylaru kalu-ngalpa wajirli-pinyi (can't hear) wajirli-pinyi kalu-ngalpa yungulu-ngalpa puntarni, wajirli-pinyi kalu-ngalpa, yungulu-ngalpa yirrarni kanunju right, now nyampu nyampu pipa nyampu if we put our nyampurla pipangka, there is no way that kardiya can come to us jalangu and tell us we want to change that we want to take it off lawa, nyampurla pipangka tarngajuku ka ngunami (can't hear) nyampuku pipaku karliparla wangka yuwayi (can't hear) lawa kapungkulu puntarni walya-waja nyampu this walya kujakarlipa karrimi kujakarlipa wapami. Nyampurla pipangka if you say lawa (can't hear). Lawa kapungku puntarni kardiylaru manu kapungku tarnganguk wjirl-pinyi (can't hear) ngulaju (can't hear) wurra-jarri right kuna waja yungulu wurra-jarri walyaku nyampuku.

You people that are sitting here. This mob said this way about the constitution. This paper is not a play thing, do not make fun of it, right now white people are arguing with us, they are arguing with us so that they can take, arguing with us so that they can put us on the bottom, right now this paper if we put our on this paper, there is no way that white people can come to us today and tell us we want to change that we want to take it off. No, on this paper it will always be there for good. For this paper we are all saying yes! No, they will take this land the very land we are standing on and walking on.

On this paper if you say no! No white people will take and they will argue with you all the time they'll keep on asking for this land but they won't get anywhere.

Mr HATTON: One more thing. When you are talking about this among yourselves, I ask you to think about things that are important to you, to the Aboriginal people, but also think of the other things too. Think for the other man. When I go into Alice Springs, Darwin, Katherine and I talk to white people, I tell them to think of things for themselves but also to think about Aboriginal things. Think about each other and the needs of each other so that we can all come together. Do

not just think for yourself, think for other people too because we are all part of this Northern Territory. As Brian said, we want this to be strong for everyone.

Mr MARSHALL: This is really important because we have got to watch Canberra. Canberra is number one, okay? They make the strong law because they got 5 parties - National, ... Independent. The law that they got to make might be ... I am not thinking about Aboriginal land rights now.

Mr JAMES MAPANGARDI MARSHALL: Law they going to make might be yalirla (can't hear) they thinking about Aboriginal nganayi land right now. That's why that thing constitution is really ngurju ngulalu ngurju-manu alright. Ngayi karlipa ngalipa (can't hear) we gotta think they talking about it yungurlupa nyanyi pipa nyampu. Wangka karlipa nyampurla Yuendumu-rla wurlati start thinking about it. What can happen in future. You gotta look to the future kamparru because land right thing won't be there lawa anymore lawa you gotta think. Yangka karlipa-jana purda-nyanyi walijirlangurla some fellarlu, kulungku kalu-nyanu yangka government-rla wajirli-pinyi Canberra-rla, they fight all the time argument therefore they make this constitution for us wurlatiki. Purda-nyangkalu (can't hear) we gotta think kamparru. We gotta think about our kids, children so we gotta think hard think about it. Manngu-nyanyirlipa nyampu law ngulalu yirramu, yungulu tarnnga yungulu Constitution yungurlipa yirrami land right tarnngajuku (can't hear) lawa. Maybe you know you look that future kamparru might be 5 or 10 years. (too many people talking).

The law they are going to make might be there (can't hear). They are thinking about Aboriginal land rights now. That's why that thing, the Constitution is really good. That one that they have made alright. We just, we gotta think, they are talking about it. We will look at this paper. We will talk here at Yuendumu, all of us, start thinking about it. What's going to happen in the future ? You've got to look to the future - ahead, because land right thing won't be there, no not anymore. Those people, we listen to on the radio, some of those government people are still arguing with each other in Canberra, they fight all the time, have arguments all the time. Therefore they make this Constitution for all of us. Listen, all of you! We've got to think ahead. We got to think about our kids, our children. So let us think about this law they have written down so they will always, so they ... so we can put land rights in the Constitution for all time. No maybe you know you look to the future, ahead, might be five or ten years.

Mr DARBY JAMPIJINPA ROSS: Right wangkami karna jalangu nyampu yaa this law (can't hear) this law. (Warlpiri wangkaya!) law nyampu kuja turn-jarrija marda kapunkulu lose-mani, we be longa under ground ngaju-pirdinypaju. Kapirnalu muku lawa nyina jarlupatu-kariji. We might lose. Kapurla old man we here and we think about what we going do nyampurla law-ngka, might you fella are going to fight from this law? This law here, yaa they turning this law but that old law is should be good one kamparrujulpa karrija and this time where you fellas miz up teh white men and aboriginal people and if you lose everything (can't hear) why you going the white fella way now you get kill, you get kill white fella way-ji (can't hear) I'm only old man and these people to be talk about. Yaa, nyampu everything kajinkili nyurrurlarlu kujalpankurlurla walypaliki show-manu everything that law (can't hear) where they make im long-a Darwin long-a

Northern Territory. This law and you fella lose everything we lose, our lose too kuja everything yalumpu jukurpa ngalipa-nyangu, ngula. Wali what he gotta do to little boy too (can't hear) little boy nuwu young man again nuwunkulujana kurdijirli yunparni lawa. That's kapulu-ngalpa puntarni tarnngajuku, kapulu-ngalpa puntarni tarnngajuku walya nyampu. Wangkami kamanyarra and that we bin have im too (can't hear) aboriginal law, white fella law too and jintangkalku kapunkulujana kijirni (can't hear) jintangkalku manu kapulu-nyarra ngulangaku kapulu-nyarra puntarni - good job (can't hear) talk about life here kapurna not long-ngkujala kapurna lawa-jarri. I'm only sick people talk about. Kapulu-nyarra ngayi puntarni. You lose everything (can't hear) nyuntu-nyangu you gotta (can't hear) that's it, you fella leave this (can't hear) little boy longa that country (can't hear) top end country (can't hear) Carwin that's where I've been little boy no wati, yaparranji nyina.

Right! I am talking here today about this new law.

This law that's going to change maybe you will lose it. We will be lying under ground I know I will be. We old people will pass away but we are still here and we will think what we should do and say about this new law. Maybe you might start fighting over this law. We think the old law is a good law, this time you are mixing both black and white people for both sides. If you lose everything why then yu want to follow the example of the white people, you will get killed for that. I am only old man and I want to represent Warlpiri people. Everything that you did and show to the white man about our culture and everything we are no happy about that. They are going to make that law in Darwin in Northern Territory. If you are going to have this new law we will surely lose everything including our Dreamings. Well, what are you going to do about the little boy when he grows up to become a young man, you won't be able to sing at their ceremonies because you don't know, they will also take that from us and the land for good. There is two laws for both black and white people. If they are going to make a decision to have one law, they are going to take everything from Aboriginal people that will be are good job done. I don't want to talk about my life, I am very old and I know that I won't be around for a long time. I've been to Darwin, Top End and around that country. There are young people up there too.

Mr PADDY NELSON: Nganimpa karnalu nyina nati change-maninjaku law-kariki, lawa. Nganimpa karnalu yangka (can't hear) jurrkujuku karnalu mardarni nganimparluju, tarnngajuku karnalu mardarni. Nuwulparnalulu change-mantarla walypali lawa. (can't hear) Lawa karnalu jurrkupardujuku yangkangkajuku. (can't hear) Jintakuyijala (can't hear) natilparla kuruwarri kujakalu kanyirni ngulaju lawa. Jinta karlipa mardarni. Nyampujuku karlipa walyapawurla yangkangka jurrkunga law ngalipa-nyangurla kujalpalu-ngalpa jirrnganja nyinaja purlka-purlka, kalalu-ngalpa jirrnganja nyinaja yaa! tarnngajuku (can't hear) yali kujakalu jinji-maninjaku wangkamirni (can't hear) ngulaju kau-ngalpa lawa nuwulujana nutuju (notice) kangka yaa! tarnngajuku. Nyampuju karlipa nyina yangkajuku. Kujalu-nganpa wiri-manu jaji-nyanu-pirdirli, nyampujuku karnalu mardarni walyaju yapangkujuku, walypalirli - right walypalirli - right that's all.

We don't want to have another law, we are happy to have this law all the time. We will stay with the same law and we don't want to change it into white

man's law. We already have this land and we want to stay on this law because it was on this law that the old men sat and talked with us. Those people from outside want us to change the law but we don't want to listen to them.

We want to live here all the time and where our fathers grew us up and we Aboriginal people still hold onto this land - and white people.

This is no problem for white people, right? That's all.

Mr FRANCIS JUPURRULU KELLY: Yapa-patu, nyampu yangka kujalu yanurnu law-ku change-maninjaku nyampu. Wali ngurrju-kinili yanurnu yangka ngatingki-mani kalu-ngalpa nyampurrarlujū law-kuju manu yungurlipajana ngaliparlū mardarni constitution-rla. Ngalipa-nyangurlupa-nyanu law mardarni our freedom ngalipaku wiri-jarlū yungu karri tarnnga. Kajikarlipa-jana wangkamirra. We can change im little bit manu nyanungurlu kalu-ngalpa jinta-mani kajikarlipa yimi because we all equal right karlipa nyina yapa ngalipaju kardiya yapawiyi we equal right to change the law ngalipa-nyangu yapa-kurra manu kardiya-kurra yungurlipa-nyanurla law might be for long time might be nuwu karlipajana kuryurlangu wardapi-pinki pinyiyi marlu-pinki (can't hear) like ranger kalu jalangu-jalangu nyinanjani, kurdu-manjani kalungalpa yangka kuyu-pinkikijakuju (can't hear) kujakujaku we want to change im law ngalipa-nyangu ngulajukurna wangkaja.

Aboriginal people, all of you! These people that cam here to change this law. Well, that's good that these people came so that they can let us know what's happening about this new law and so that we can have our say in the constitution. We will keep our law. Our freedom for us is really big, it will stay as it is all the time. We might talk about to the people who are working for the government, tell them that we can change this new law a little because we are all equal, both black and white, and because we've got that right. We want to change our law, put it into both Aboriginal and European law. We should make our law for all times and then maybe there won't be no more looking for bushtucker like hunting for goannas or kangaroos because nowadays there's Rangers in some places that look after those animals and the place and because of that we know we can't do that anymore. We want to change our law, that's all, I've talked.

Mr EDE: One of the things I want to talk about a little bit more is that some people are frightened that the constitution is a new law that might push away some of the other laws. The constitution is the one that can bring all those other ones and put them in one place. Now we have got land rights law that is in that parliament from Canberra. We can put the main things from that in that constitution. We got sacred sites law that sits in that parliament up in Darwin. We can pick up the main things from that and we can put that in the constitution. We have got things about looking after language and we can put those in there. We are not making new things. We are taking the most important things from other places and we are putting them all in this one place, in the constitution. We are saying that these are the ones that we hold strongest. The ones that are set out in those other places are the ones that can be changed a little bit or whatever. That is the same like

other Kardiya laws. But, the ones that we put in this constitution are the ones that we say: 'No. Not to change'.

Now, inside there are some new things as well that some people say should be in there. I reckon they should be. Some other people say no. They are like what Francis was saying about some of the equal rights things. Human rights we call them. The United Nations talks about human rights, things like freedom of speech so anybody can talk out even if they want to talk against the government or talk against the politicians. That is their right. Nobody can come and put them in court for that. Freedom of religion - so that nobody can come along and try to close down somebody else's religion. If somebody wants to have their own church and develop it, that is their right. There is freedom of assembly so that people can come together, not like in places like South Africa where you cannot get together or the police will come and chase you off or start shooting at you or whatever. No. This is Australia, the Northern Territory, and we want freedom of assembly. We can put those things in there as well. There is freedom to own property and land and freedom of education. Those are really important things. The freedom of people and the right to have a proper education for themselves and for their children so that everybody can be equal and have equal access to jobs and things like that later on.

Those are things that we have got to talk about and those things are most important. Are they important enough that we should put them in the constitution as well or can we put them in other laws? We have got to talk and think about those things. We have got some of them written in this book and other ones are in that green book where they are written out a bit longer.

Mr DARBY JAMPIJINPA ROSS: Right! Yangkayijala karna yarda wangka wangkami karna ngurrara jinta karlipa mardami ngalipa-nyangu and this one I talk little bit English now (can't hear) change him all a time they (can't hear) long-a Northern Territory ngula, ngula karna ngarrimi and what he goin do nyampuku kurdu-kurduku nyurrurla-nyanguku what they you fella (can't hear) wurlati (can't hear) reading paper (can't hear) sent im this Darwin and should be good law, old law is the good one everything where you been young man, think about for that one, that is the problems. Old law long time ago and this time you shut him off altogether. You no like him purlka drovin right up to Queensland like that one (can't hear) how long this we gotta change him back for this one you lose everything he know what they (can't hear) long time ago when they bin taught another lot lead lot when they bin going right up to Queen longa (can't hear) that's a trouble bin going around too. Nyurrurlarlangurlu purda-nyangkalu yangka nuwungkulu yalirla nganta yinkili muku warraja-mani yaparranji-kirlangu pina-pina-maninja-kurlangu ngula, ngula karna ngarrimi yirri-purami karna (can't hear) I'll be lose long a this Yurmtumu ngayi karna-nyarra yirri-purami ngula ngayi karna-nyarra yirri-purami and ngurrara jintalu mardaka ngurraraji, ngurrara jintalu (can't hear) change im you fella gotta have two law, jirrama law (can't hear). Ngulajangkaju kapungkulu-nyanu fight-jarrimi, you fella fight im now big lot of war fighting over there like a wallaby, we only sit down to anything right in a centre here where we here all around the world ngulu ngayi karnaju yirri-purami that old law (can't hear) long time ago (can't hear) another one there now (can't hear) to you and (can't hear) to me tayimi karrija law ngalipa-nyangu-wiyi lose kapulu-ngalpa warrarda wajili-pinji, kapulu-ngalpa puntari this land that land can't go he'll be here all the time I'll be top of the hill longa this world kuja can't hear he moving around he moving around he's somewhere you fella see him? No! lawa can't hear this world it'll be here all the time. We start fight from another country the war, another country they fight that's why can't hear from a land, walyangurlu kalu-nyanu pakarni (can't hear) white fella I

bin lose im lot of white men where they bin working through the Ashes creek longa Darwin longa Northern Territory (can't hear) lose im now war time where they bin fight again (can't hear) ngula ngayi karna-nyarra yirri-purami white men they finish poor fella (can't hear) that's like war but we want to (can't hear) everything we gotta have old law ngalipa-nyangu walya. Loses our people and we don't want them fighting one another again, that's just a story I am telling. We got to have old law for our land.

Right! I will talk again. We have one country which is ours and about this one I want to talk little bit of English. (can't hear) Now they change the law all the time in the Northern Territory. (can't hear) That is what I want to say. And what will he do about these children, your children? (can't hear) All you you who can read paper will write and send this to Darwin and it should be a good law. The old law is a good one because that's where everything started before and think about the ceremony for the young men. Think about it, it will be a problem because that used to be in the old law for a long time and now you want to shut it out altogether. Some of you didn't like that old man who drove right up to Queensland. (can't hear) How long are we going to change them from this kind of trouble? All this government men are working, (can't hear) that is they come to us and you've to try to talk to them and maybe you can change the old law for this new one. He knows you are going to lose everything. (can't hear) Long time ago when people taught one another how one of them became the leader of that group so that he can talk for them, one day they went to see the Queen. (can't hear) We had this king of trouble too. We also want you people to listen, we don't want you teaching sacred ceremonies and keep quite about it. (can't hear) I am telling you now, one day I won't be at Yuendumu. I am just telling you this, you only have one land. Look after it and hold on to it! (can't hear) The people have to have two laws (can't hear) and because of this you among yourselves will fight, they will argue a lot like they do inside the parliament, they argue and they fight like a wallaby while we sit back and do nothing. All kinds of things are happening in this world and that's just the story I wanted to tell you. Long time ago (can't hear) in my time there used to be this law, (can't hear) if we lose it, then they will be after us all the time so that they can take this land from us. This land can't go, the land will always be here all the time. I will be on top of this world (can't hear) and that's just the story I wanted to tell you. Long time ago there used to be this law now they want to chase us all the time so that they can take this land from us, the land will always be here all the time. I will be on top of this world, he is moving around and he is somewhere you can't see him anymore. This world will always be here all the time. We have fight with people from another country (can't hear) it is called war. In people from another country (can't hear) it is called war. In some country they fight over the land. (can't hear) I lost a lot of white people who were working through Ashes Creek to Darwin in the Northern Territory (can't hear), I am just telling you about the war when they fought. We don't want another war like that. (can't hear) We have got to keep our own Law and our own land. We don't want to lose our people

and have them fighting again. That is just what I've got to say to you. We have got to have our old law for our land.

Mr GEORGE GARDI: Little bit karnalu wangka nganayi (can't hear) yirri-pura karnaju ngayi nganimpaku you know. Few kujakarnalu nyina, nganimpa-wayi law-malu jinjurkur-manu kujalu nyampu yanumu nyampu-kurra that one Canberra-ngurlu jinjurkurra nyampuju. Nyanungurraku karnalu law-kumalu finish-jarrija, walimalu jinjuqapu-manu nyanungu ngayi karna yirri-pura ngajulu. Ngajulurna jinji-manurnalu nyampu kujalu kangurnu nyampu (can't hear) nyampu pipa that one ngurrju nuwulpa nuwulpa touch-mantarla yapapardu purdulyurnu nyampu lawa-lawa nyinaja ngurra nyampu lawalku nyampuju few you know ngurra nyampu karlipa nyina wulati ngalipa wali pitiyimani kalunyarra young fella-rlu wulatirli everybody-rlu all you kurdu kurdu you know kapulu nyampurla nyinami kurdu-kurdulku pipa-kurdu you know (can't hear) Ngalipa kuja law-wayirli ngajurna finish-jarrija janjawupa-manurnalu - that's all. Janjawupa-manurnalu, nyina karnalu. Kurdu-kurdu right, ngaju-nyangu kujakarna-jana think-jarri that one kurdujuku kapula nyinami. Karnajana ngarrimi (can't hear) nganimpa ngayi karna-nyarra kujangu ngarrimi (can't hear), Nyiyarla kuja tumaji (can't hear) yalumpuju try-manurnalu law-ngka? Still ngawu still ngawu dangerous. Nyampurla ngurrangka still rubbish nyampuju ngurrangka ka karri. Nganimpa law kuja nyampuku kangurnulu ngurrju proper (can't hear) nyayirmi (can't hear) Nuwu law-ngku nganayi-maninjaku lawa really jinjawup-manulu Canberra-ngurlu Darwin-ngurlu proper ngurrju-nyayirmi. Ngayi karna-nyarra japirmi nati nganimpa, nganimpaju karnalu nyina lawa, kapurnalu nyinami yangka law, law yangka juka-jana new-marri yanumu. Nyanungurla juku kapurnalu live-jarri. That's all, nganimpa ngulajuku. Nyurrurla right if you think about nyurrurla. Ngayi karna nyarra.

I want to talk a little bit, say something about me, about us, you know. (can't hear) There's just few of us. In our way, we changed this law, when these people from Canberra came so that they can change this law. We finished with those laws and we change over to this law we have now. I'm just telling you myself. We had to change what was written (can't hear) on this paper that these people brought here, this law is good and they won't touch Aboriginal people. There are only few of us at each camp, that makes us one big group and there will be our children living here who can read and write and we going to think about them too and because that law from before is bad and dangerous, even today it is still the same. This law we have is proper good it's from Darwin and Canberra itself. I just want to ask you how you want your law. We are alright because we have new law, it's going to stay as it is now. You're okay, you will have to think about this law yourself.

Mr EDE: Just to answer that question. This constitution does not just go for communities, not just for outstations, not just for main towns, but for all over that Northern Territory, everybody. The Administrator, Eric Johnston, he has got to come under this constitution. The Chief Minister has got to follow this constitution. All the members of parliament, all the magistrates, all the people right throughout the Northern Territory are all underneath this one big law. This is the one law that is for everybody. That is why it is most important to get it right. Councils will say: 'Oh, it will be all right.

We will let them go'. No way. No way. It has got to be all right, 100% all right, or else we say: 'No. Put it back. Try again'.

Mr PADDY JAPALJARRI SIMS: Ngalipa yapa, yapa, yapa ngalipa ngurrara (can't hear) walypalili-ngalpa wardinyi-jarrija. Only one law, one law yapa-kurlangu, yapa kurlangu one law. Walypali ka nyina, jintakari ka jinjimani, ngula-jangka jintakarilki ka jinji-manirra. Nuwu kardiya-kurlangu karlipa mardarni, lawa. And yapa karlipa nyina one law, one law karlipa mardarni land right (can't hear) Ngalipaju, kajilpalu, kajilpankulu yali yangka kardiya walypali kardiya yapa nyinanjaku jintangka wuntururla new law-wana ngulaju panu karla karri walypalikiji, kardiya yapa karla karri panu - nati ngalipa-piya. Ngalipaju karlipa, ngalipaju karlipa one law, one law karlipa mardarni ngurra walya, ngurrara, ngurrara nyiya kuja? Land right kuja. Kulalparlipa nyarrpa-jarriarlalku, one law-rla-juku karlipa nyina ngalipa yapaju - yapa. New law-rla karlipa nyina ngalipa, yapa. Kardiyanya yapa nyinanjaku one law kuja, ngula jintakarilki kangalpa karrimi. Nyiya kalu ngurraraju land right aa nyampunawu walya nyampu. Wali nyampu, ngulanya walya nyampu land right a-ju, walypaliki karla kardiya karla karri (can't hear) kapu-ngalpa wardinyi-jarri Warlpiri, Warlpiri language-ju, language-ju Warlpiri. Warlpirirli language-rlu pipa-kurramanulku (can't hear) kuja. Kajikarlipajana piki paa-karrinjarla jiranku-jarrimi ngalipaju yapaju - yuwa. Kardiya ka nyina kalyu-kurlu.

White people are happy for Aboriginal people to have the land. There's only one law for Aboriginal people. White people have other law that changes all the time and we don't have this law, we Aboriginal people have only one law, we want to have land right. We both black and white people should have one law.

White people have many laws, we only have one law that allows us to have the land. That's why we want to keep that old law.

What are we going to do if we have this new law? They are happy for us to write in Warlpiri language, even when we write in language we don't know what to say and don't really understand what they are saying and they get the better of us.

White people have water that's easy to get.

Mr EDDIE JAMPIJINPA ROBERTSON: Nyampu kujaka warru yani, jalangu kujanpalu wangkaja, wali little bit might be nuwu (can't hear) jalanguju kankulu kangin-karri. Nyampuju warru wapa kalu and kalu warru warnkiri-mani not only nyampurla (can't hear) yinya kardiya, community-rla, town-rla, city-rla yalilki mayi Darwin-rla outstation-rla community-kari community-kari, warru kalu wapami warnkiri-maninjaku law yangka kujakarlipa ngaliparlu mardarni. Yungurlupa yirrarni nyampu-patu-kurra, yalumpurlu yungu hold-mani Canberra-rlu. Nati kalu-ngalpa puntarni nyampu lawa Darwin wali CANberra-rlu ka run-manimi yalirli kangalpa yinyirni yipirijingiji (can't hear) town-wardingki-paturlu kalungalpa ngarrimi kalungalpa. Nyampu constitution is really important nyampu wali, people's statehood. So yangka kujanpalu wangkaja land right-ki or tribal council-ku, yungurlupa yangka law yirrarni nyampurra-kurra and nyampu-patu yungulu (can't hear) nyampurla tumaji kalungalpa Canberra-rlukini run-mani nyampuju Darwin-ji. But Darwin (can't hear) run-mani kajana Northern Territory Government-rlu wali kajikarlipa law-ju

tarnngajuku mardarni, nuwulpa anything jayinji-mantarla lawa, nuwu karla puntarni lawa. Nyampu kajirlipa nyanyi ngalipa-nyangu wangkanjaku (can't hear). But if we put him jalangurlu (can't hear) law yangka ngurrju (can't hear). Ntili wrong think about-jarrija walku. We want to put him yangka our law ngurrju kujakarlipa mardarni, nyampu-patu kardiya ngurrjukini kalu think about-jarrimi.

These people who are going around today talking to people and those of you who've talked to them maybe right now you don't understand about this law. These people are just going around to let us know they want to change this law not only here but talk to other people at each community in towns and in the cities and on outstations, they want to let us know about that law we used to have before. We want to put it through to these people and what they maybe said will be made at Canberra. They will not take this away from us. Darwin is run by Canberra and everything they give us is coming from that place. The people from town are trying to tell us. This Constitution is really important. Well, it's about the people's Statehood. So like when you talked about the land rights law and about the tribal council law, maybe we can put those old laws into this law. And these people so they can (can't hear), because for us, Darwin is run by Canberra. Darwin (can't hear) itself is run by Northern Territory Government. We will have the law all the time, they can't change anything and they can't take that from us. When we see what we've said (in the Constitution). But if we put him like that now that law is good, don't think wrong. We want to put (can't hear) our law because that's a good one we have. (can't hear) It's good that these European people will think about it too. They can't take land right away from us. But if we put him like that now that law is good, don't think wrong. We want to put our law because that's are good one we have. It's good that these European people will think about it, too.

Mr EDE: Okay, it would be better if everybody goes and has something to eat, eh? But don't forget that we will be travelling around to every place over the next month or so. As soon as we get back to Darwin, everybody is going to start work on getting those tapes together in language so that we can get them back here. It would be good if we can get them back by about June July so that, by the time of the Yuendumu Sports weekend, everybody knows about it and people can talk about it. Thank you very much for coming. We will see you all next time.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

WILLOWRA — Tuesday 11 April 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 Harry NELSON (Translating)
Mr Johnny KITSON
Mr Sammy JOHNSON
Mr Teddy LONG
Mr Ben JAKAMARRA
Old Toby JAPANGARDI
Mr Billy LARRY

NOTE:

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

Mr KITSON: Nyampulungalpa yanurnu, kardiya nyampupatu. Yingalpungalpa yangka wangkami. And ...jinta karlipa yangka know-mani nyampu purlka ngalipanyangu know-mani, kankulu nyampuju, Brian Ede. Nyampu ngula ka nyina, he is our boss. (Many people talking). Ngayilingalpa yangka yanurnu purdnayanjaku, wangkanjaku, yes, that's it, so they can talk to us. Yes, kujanya. Yingarlingalpa wangkami.

These white fellows have come to talk to us. And one of them we all know very well, this one here, Brian Ede. This one is our boss. (Many people talking). They have come to listen to us, and to talk to us. Yes, like that. So they can talk to us.

(Several people speak at once, indistinct. Sammy Johnson -in English- says something about listening to Jakamarra -ie Harry Nelson - now).

Mr HATTON: Thank you, I am Steve Hatton. We are going all around the Northern Territory talking to people about making a special law. It is a law that is made by the people. You have heard talk before about maybe the Northern Territory becoming a state. Some people think that is a good idea and some people think that is a bad idea just yet. We are not asking you whether you think we should be a state or not. There is another question first and that is that we have got to say: 'If we want to do that, what sort of place do we want the Northern Territory to be? What are we going to do to make this place a good place for our children, our grandchildren? How do we make a law that is the boss over the government? How do we make a law that is the boss over the courts. How do we make a law that doesn't change all the time? How do we make a law that protects the people's rights?' We do that through this thing and, before we even think about being a state, we have got to do this job. When we have done this job, all of the Northern Territory people, then we start thinking about whether we should become a state or not, but not before that.

Mr NELSON: Nyampu kujalu yanurnu kardiya-patu nyanjanguku manu wangkanjaku nyurrulaku. Kujanyarra pipa nyampu yungu nyurrulaku. Nyampuju ngayinya, kujakalu ngarrimi walypalirli, proposal. Law kujakalunyanu yangka wangkami Darwin-rla, kujangalpa ngalipanyangu Parliament karrimi. Kajakalu wangkami whole-lot-ki jungu-jarrimi, yangka elected-kangu-kangu. Ngalipakungalpa nyinami Brian Ede. Nyampu ka nyinami nganayiki Nightcliff-ki...Ludmilda ka nyampu nyinami, nganayirla area-rla...Out Station area-rla. Nyampupatu Boss-kangu-kangulu yanurnu, Select Committee, wangkanjaku not only ngalipaku yapa-mipaku, kardiya-and-all-ku, yangulu yangka law ngurru-mani, nyiyalpalu...nyarrparlulu ngurru-mani nyanungu law.

These whitefellows have come to see you and talk to you and to give you this paper (booklet?). The whitefellows just call this 'proposal'. This how they talk to each other about the law in Darwin, which is where our Parliament stands. They all get together and talk, all the ones that have been elected. Brian Ede is the one for us (our member). This one here is the whatsit (the member) for Nightcliff? ...he's member for Ludmilla, member for all those areas ...outstation areas (ie they represent everywhere). All these boss people who have come, the Select

Committee, are going to talk not just to Aboriginal people, but to whiteflows and all, in order that they can make the law, what ...how they can make this law.

Nati ngalipa yangka kujakarlipa jarlupatu nyinanja-yani yangka jalangu, but kurdu-kurdu-rlanguku, ngakaku. Yungluu yangka self-ngki do-mani nyampurla Northern Territory-rla, nati ngalipa nganta, yangka ngalipanyangurla kujakalu yangka nyina Canberra-rla, manu interstate yangka kujakalu wangka walypalipau, walku nganta. Enough karlipajana ngaliparluju mardarni Government Northern Territory-rla. Ngulaku, that's why karnanyarra warrurnu yani nyampu wangkanjaku everybody-ki, --ngalipaku.

You know, it's not only for adults that we are here today, but also for the children, for the future. In order that they can do it themselves here in the Northern Territory, not like for our (Parliament) in Canberra, or those white fellows who talk interstate (ie State Parliaments), not for them they say. We've already got a Gvoernment for the Northern Territory. It's them that is doing this, that's why I'm going around to you (all) to talk to everybody, ...to us that is.

Mr HATTON: If you look in the back of this book that we gave you, you see the pictures of the people who are the members of the committee. It has 3 people from the Labor Party and 3 people from the CLP. It is the same number for the government and the opposition. That is because, on this job, we both say the same thing. We are working together. There are lots of times when the Labor Party and the CLP fight, but not this time. This is too important to fight about and so we are working together on this one for everybody in the Northern Territory, Aborigine, white men, the lot.

Mr NELSON: Nyampurra kankulujana nyanyi pipangka yangka, pictures nyampu, kankulujana nyanyi, many wangu-mani. Three-pala nganta Labor Party three-palajala Country Party. Nyurruwiyi kalalunyanu kulungku wajili-pungu. Jalangu, walkulku. Nyampu kangalpa warru japirni ngurra-kari ngurra-kari, jungulku kalu working-jarri, kuluwangu. Yungulungalpa ngalipa help-mani, might be ..mightbe marda kajikarlipa wangka yes kuja, wangkayalu kuja ngurrju-mantal law yalumpu ngurrju kuja, walkungka, yampiyalu. Kuja ngari kanyarra warru japirni, kangalpa ngalipajuku whole-lot.

You (all) see all these photos in the booklet, you are looking at them, seeing them -said in special language- They are three from the Labor Party, three from the Country Party. In the past, they used to argue with each other. But not on this occasion. These people are going from place to place asking us (about this law), they are working together, without argument. So they can help us, maybe ...maybe we can say 'yes', telling them to make the law, or if you don't want it now, leave if (for another time). They are just coming around asking, not just us, but everybody.

Mr HATTON: You know that sometimes the government changes the law. It goes this way and then changes it and goes that way and back again all the time. To some people that gets

very confusing. The government can change any law that it wants to change. The only way you can tell the government that it can't touch these things here, that it can't change this law, is through this constitution.

Mr NELSON: Nyampu kujaka yirdi warrarda yirdi-mani Constitution, nyampuju ka karrimi law-nya. Nati yapakurlangumipa kapili ngurrju-mani, kardiyakurlangulpa karrija kujapiyaju nyurruwarnupatu. Ngulaju kalunyanu wajili-pinyi kulungkuju. Kajilpa nganta Government wangkaurarla, law ngalipanyangu change-maninjaku walku, kajikalunyanu wurra-mani yalirlajuku, Parliament nyanungu-nyangurlu.

This thing that they are calling the Constitution is a law. This is not an Aboriginal thing, buyt a white fellow thing that has been there for a very long time. They are still arguing about it with each other. If the Government is talking about changing our law, then they hold each other back (ie they prevent each other from changing it), over there, that Parliament of theirs.

Mr HATTON: This thing is what the people say, what you say, what everyone in the Northern Territory says. That is the boss law, that is the boss over the government. The government can't change that. The government can't break that law. It's there and the only thing that can change that is all the people together. The government can't change it.

Mr NELSON: Nyampu kujakankula pipa wangu-mani manu nyanyi, kajilpnakulujana wangkaurarla jaru kuja: 'Ngurrju-mantalu, nyampu pipangka, jaru nyurrulanyangu Pariament-rla', Government-rli nganta nuulpa nganayi-mantarlalku, change-mantarlalku walku. Ngalipanyangu jaru ngulaju kajika ngunami in order that-jala nyampu wali Parliament-wardingku-paturlu kajikalu kanyi nyampurra-paturlu whole-lot-rli. Kajikalungalpa ngalipa purda-nyani yalumpuju kuja karrimi kujajuku, nuulpalu change-mantarla nganta walku.

This paper that you see, if you talk to them about it like this, 'Make it, on this paper, in your Parliament', the Government say they can't then change it. Our contribution, which is there, well all of these Parliamentarians who are here will take it, they might listen to us, and let it remain thus. They say they can't change it.

Mr HATTON: In Australia, all over the place, people in Queensland, in Western Australia, in South Australia, in Canberra, in New South Wales, in Victoria - all the states have got their constitution, but only the Northern Territory does not have one.

Mr NELSON: Yangka yawarda-nyangu-jala-nkulu, Queenslnad-rla nganta, Canberr-rla, New South Wales, Victoria, Western Australia, panu marda(?) nganta kalu Constitution mardarni, law kalu mardarni, Constitution. Constitution yangka yirdi, Constitution. Northern Territory-rla walku karlipa nyinami, ngalipaju.

You have heard about this, in Queensland they say, in Canberra, New South Wales, Victoria, Western Australia, all of these have a Constitution, they have a law, a Constitution. Constitution, that's its name, Constitution. In the Northern Territory we don't have any.

Mr HATTON: The Canberra government can do what it wants with us. The Northern Territory government can do some things but the Canberra government says that we can do this and we cannot do that. They can do what they like in Canberra. The Canberra government, if it changed its mind, could take away land rights. If land rights was put into a constitution, they couldn't take them away. It would stop them. That is an example.

Mr NELSON: Ngayi-jala wangkami ka, Land Rights nuulpalungalpa jurnta kangkarla ngalipaku, ngayi ka ngarrimi jaru-jala. Nyampurula pipakungarntiji, kajikanjana nganayirra-puka, law-lku kajana karrimirra nyanungukulku pipangka, Canberra-wardingkirli kajikalunjana Northern Territory-wardingki Government ngarrimi change-maninjakuju. Or Mardaminjaku. Nati Land Rights jinta-mipa, panukarirlangu wiri Ristricted Area kujakangalpa karri pamawanguku you know, ...kujarlanguku, kujarra yangka kajikalu change-manirra, wali kajikalunjana wurra-mani marda. Kanya nyanungululka kajikalunyani wajili-pinyi jirramarlu Government-jarrarlulku, Northern Territory-wardingkirli, Canberra-wardingkirli.

He is saying as an example that they cannot take Land Rights from us, he's just giving that as an example. (?Before -the Constitution- comes into effect, they could change the law, if the Canberra government were to tell the Northern Territory government to change it. Or to look after it). Not just Land Rights, all kinds of other things, like large Restricted Areas where we don't have any alcohol, you know, like that for example, in that way they can change it, well maybe they will block them. And the two Governments are still arguing with each other, the Canberra representatives and the Northern Territory representatives.

Mr HATTON: In the Northern Territory, all the people have got to start thinking about this law and what we want in this law. We have got to start talking to each other and thinking about it and then we come together and we make this law so that it becomes a law of the Northern Territory people. We must make a law that we agree should be the boss law for this place.

Mr NELSON: Nyampu ka nyina ngampurpa kajakalu warru-wapami ngurra-kari ngurra-kari, kajana warru-wangkami, ngari kalu nuu nganta yangka kujalpalu nyurruwiyi yangka juwa-kujurnu yapa, kajinyarra japimi nyurrula yapa kalungalpa ngalipakula, yungurlupa law kinta-mani, kardiyalru yapangku.

He want to go around from place to place, talking to the people, not

rejecting Aboriginal people like they used to in the past, and he is asking you and us too, all of us together, to make one law, white fellows and Aboriginals.

Mr HATTON: I will tell you how we are going to go about doing this. This book here has got some ideas in it, just a few ideas. However, we have got another one which we will leave here. It is that book. It is a big one. That took us 3 years work, 3 years of thinking, studying, looking all over the world. We looked in America, in the West Indies, in Africa, New Guinea, Australia, New Zealand for all different ideas. We put them all in there. Some of the things in here we think are good and some things we don't like. But, they are all there for us to have a look at. You might think of other things that we did not think of. What we want you to do is to have a look at these things, talk, think and come and tell us what you think.

Mr NELSON: Nyampu kujaka karrimi yarringkarringki, pupu, nyampujulu warrki-jarrija nganta three year or might be four year marda warrki-jarrija. Yirrarnulu jaruju idea kajalu muku-yanu all over the world nganta, wangkajajana kardiyakuju, yapaku, ngalipapiyaku. Ngulangurlu, pinarnili kangu nyanungu idea Darwin-kirra kujakangalpa ngalipanyangu Parliament karrimi. Nyampurlalku jinta-manu jaruju whole lot-rli, kardiyarlu. Nyampu kapu yirramirra, nyurrulanyangu Community Advisor-rlyu yungu-nyarra milki read-mani, nganayi kajinkili yangka you know question yangka japikarla.

This green book, they worked on it for maybe three years, maybe four years they worked on it. They put down the messages and ideas for which they went all over the world, talking to white fellows and to black people like us. From this they brought back the ideas to Darwin, where our Parliament stands. And then all those white fellows made one document. Maybe he will leave that document here for your Community Advisor, for him to read it out to you, so you (all) could ask questions about it.

Mr HATTON: We are coming round today telling you that this job is starting. We are asking you now to start to think about this and start talking about it and we will come back later this year. Maybe, if you want us to come back before then to talk about some things, we will come back. Later this year, when you have had a good chance to think and discuss, we'll come back and you can tell us then what you think should go in here.

Mr NELSON: Kajili nyampujangka puku yampimirra, nyampu puku yarringkarringku nyanungu jaru wirijarlukurlu, nyanungupatu kapili pinarni yani, kapilinyarra yampimirra nyurrulalku wangkanjakurra. Wangkayalu self nyampurla yapakariyinyanu. Nati nyampumiparla, yalirlangu kurlirra, yatijarra, kakarrara. Ngulapatuku kajana warru-yani, japiminjaku. Ngayi kalungalpa yinyi, pipamipa, nyarrpa karlkpa purda-nyanyi ngaliparlu.

They are going to leave this book for you (all), this green book with an important message in it, and they are going to come back later, and they are going to leave you to talk about it. So talk about it amongst yourself, amongst different

Aboriginal groups. Not only in this place, but also people from other places to the south and to the north and to the east. They are going to go around asking people. They are going to give it to us, just a paper, for us to consider it.

Mr HATTON: After that, our committee has got to sit down and try to work out and write out what we think all the people in the Northern Territory are saying. We will prepare what we call a draft constitution. That is a first go.

Mr NELSON: Nyampulu yanurnu kajalu draft Constitution proper hard-nyayirmi ka karri English-ji, yalumpuju. Nuu karlipa Warlpiri mardarni jaru ngaliparlu. Nyanungu nganta English jungu-maninjaku walku. Idea-mipa nganta kalungalpa yinyi nyanungu kalu mardarni, ngula that why kalungalpa warru-japirni maybe ngurrpangku-again marda palikalikirliyijala.

These one came here to tell about the draft Constitution, which is in very difficult English, this one. We don't have words for those things in Warlpiri. We can't put the English (and Warlpiri) together. They are just ideas they're giving us, ideas which they have, that's why they are going around asking us, they might not be sure themselves.

Mr HATTON: Then, we want to get together a big committee of people from all over the Northern Territory, representative people. They may be from the desert country, from the Top End, Aborigines, Alice Springs people, cattlemen, people from all over. They are going to represent all the different people in the Territory and they will take our work and have a look at it. They will say: 'Yes, we like that. But, we don't like this'. They make sure that they are happy with the work that we have done or they change it.

Mr NELSON: Kapilijana nganta nyanungurluju mani nyampu kamparru kujakalu warru-wapami kajili yangka pipangka yirramirra report Government-kijala. Kapilijana japirni yangka station-wardingku-patu-rlanga-puka, kardiyapatu, yapa, all over ngayi Northern Territory-wardingku-patu, wangkanjakuju manu read-maninjaku, kajinkili yangka nganayiki ngula karlipajana yangka report-ju pina yirrami ngalipakuju maybe Yurntumu-wardingkirli, Willowra-rlu, Lajamanurlu, nati parnaparla marlaja juwa-kijikarla, wali kajika yangka pina-wangka again meeting-ji kapili pina yanirni again wangkanjakuju yapakuju, kujakalu nyampuju wangkami.

After they have gone around they will leave the report for the government (to sort out), they say. They are going to discuss it with the station people for instance, with white fellows, with Aborigines, with people all over the Northern Territory, and when you have talked about it and written it down we will give them back our report, made by Yuendumu people, Willowra people, Lajamanu people, perhaps, they won't just throw it away after that, they will come and talk about it again, at a meeting for which they will come back again to talk to Aboriginal people again, this is what they are saying.

Mr HATTON: And they are going to do a very big job, the most important job on this one. When they are finished, that book then goes out and you have got to vote yes or no. If you say yes, that becomes the law. If you say no, we have got to go back and start again and keep working backwards and forwards until we get it right.

That committee we are talking about - you have got to really think about who should be on that committee. We want you also, when we come back, to say who should be represented because that committee has got to be able to speak for people from all over the Northern Territory, all the different people. You have got to think who should be on that committee. That is the second question we are going to ask you. That little book there says how we go about doing that. They are the 2 things we are going to be talking about.

I just want to finish by saying that, when we finish this job and we have this law, it will be like Aboriginal law. It will always be there. It will not change much. It stays there. This law is like that and the government can't change it. We have got to do it properly and get a good law because it is going to affect our children and our grandchildren. We have got a job to do to make it right, to make this Northern Territory a place for all of us so that our children and our grandchildren will say that we did a good job and that this is a good place. If we do not do that job, they will look back at us and say that we did not do what we were supposed to do and that we let them down.

Mr NELSON: Nyampu wali kaji yirrarirra pipa, kajili yangka finsih-manirra nyanungurlulku, Parliament-rla, nati ngalipaku nganta, yangka kujarna wangkaja kurdu-kurdu and all-ku nganta, kujanya kalu nyampuju wangkami, ngajuju ngurpa again ngakarna pirrarni-pardu-karirli purda-nyangu nyampuju wali, jaru. Kapi ngunami nyampuju wali law-ju pipa nyampurla walirla nyampupiyarla, tamngajuku kapu karrimi. Nati nganta kapulu Government-rii change-mani walku. Kajilpalu ngalparla kapuru nyinayarla, kajili yangka wiri-jarrimi, ngalipanyangu kurdu-kurdu, jamirdinyanu-puka, kajili yangka ngakalku panu-jarrimirra, kari nganta nyampu-paturlu kaja ...'Nuulu kuja do-manu ngurrjungku, warrki'. Ngayilingalpa kuja jamurlu wangkaja kuja, marlajajana kuja nganayi-jarrija yarrapu wantija nganayiji pipa.

When they have finished this report (Constitution) in the Parliament, it will be not just for us, but for our kids and all, that's what they are saying, it was only the day before yesterday that I was ignorant about this, I only just heard about it, this idea. It will be there, this law, which is on this paper, it will be there for ever. The Government can't change it, no. If they don't agree with what we have written, our children and grandchildren, later when they have grown up they might say ...'They didn't do it right, this work'. They did nothing but talk about it, and because of that it came to nothing.

Mr EDE: All the time when I am travelling around Aboriginal communities all the way around my electorate, we are talking about law and we are talking about how that new Kardiya mob are changing that law. All the time people come back to me and say: 'Why are you mob always changing that law? We try and work them out one way and you tell us one way and then, next week, you come along and say that they changed them another way and we have got another fight going on that one'. And people get really fed up with it. They are always saying: 'Come on, it

is not like our law. Our law has been going 10 000 or 20 000 years and always one way'. I say to people: 'Well, Kardiya law is like that. One government comes in, another government comes in and changes. Different ideas. It goes like that'. But, when I was looking around that one, you have a look and you see that every other place in Australia - Queensland, New South Wales, Victoria, South Australia, Western Australia, Commonwealth - they got this law that they do not change all the time, that they call constitution. That constitution is like that ground they stand on. They cannot have that Queensland, that state, they cannot have that place there, without that constitution.

It is a little bit like Aboriginal law. That law, that custom, sacred site, land rights, everything - that is that one, straight there. You cannot go changing them. It has got to be there. So this a little bit the same. You cannot really say the same because this one has only been 100 years or something like that. Aboriginal law has been for thousands of years. But those ones for Queensland, Western Australia, South Australia, all those ones, they did not talk about Aboriginal people. Back in those days, they just thought: 'All the whitefellas coming together, but those are different ones there'. But that was 100 years ago.

We do not want Northern Territory to go like that. We want Northern Territory, Aboriginal people, white people, to all stand together. What we want to do is talk about how we can make a constitution for Northern Territory that is law, like that one that does not change all the time. But, we got to look what we are going to put in that constitution. What are the important things? So we are going to start looking around. Okay, there is that Land Rights Act there. Canberra is boss for that Land Rights Act. What we have got in that Land Rights Act, we do not want to change. What are the really important things in there? Put that one out and say: 'Okay, we will put that one in the constitution'. We are not going to change that one. We are going to leave that one for 100 years, 1000 years. What about sacred sites? Northern Territory government, that Darwin mob, is boss for that sacred sites legislation. We might take some things from that and say that is really important thing for this one. Put that one in there. Then we have got things, Kardiya things, like voting. Everybody wants to have right to vote so they can say: 'Okay, are we going to put Brian Ede back in there or are we going to chuck him out and get the National Party or what we going to do'? That is important power you mob got for that one. It is really a power, important. So you might want to put that one in there too, about having elected representatives. Who is going to be boss for the courts? All of those sort of things, we are going to talk about putting in this constitution. They are all things that are put around the place now and they can change. But what are the ones out of all that we want to make sure they do not change all the time? So we put that one in.

Mr LONG: Can I ask one question?

Mr EDE: One thing we have got to think about with this one, most important thing, is that, when we come back next time and you give us some ideas and we take them all away, write them up and bring them back and you have a look at them, it is no good if you are going to say: 'Oh, they are all right. Half all right, half no good'. You cannot take them for that. You have got to make sure everything is all right first. That is why I am saying it is really important. If you do not like them, put them back and we will start again. We have got to do all those sort of things first. People have been talking about statehood. What is this statehood anyway? You cannot feel it, you cannot eat it, you cannot do anything with it. You have got to have constitution first because constitution, that is that law that says how that statehood is going to run, who is going to have that power after that

statehood. How are the people going to stop politicians, going to stop the government, from going inside their area, from mucking up all those things from long time back - all land rights law and all that thing. That has got to be in the constitution. So we have got to do all this one first and then, after we have got that one all right, we can start talking about statehood. We do not talk about statehood first.

Mr KITSON: Kuja karnanyarra wangka nyampupatu kalungalpa wangkami yangka that Government ngalipanyangu, Territory Governemnt, ngalipanyangu nyampapatu.

This is what I am saying to you, this is our Government, the Territory Government, these ones are ours.

Mr NELSON (Translating): These people, you people here, you are speaking as our government, Northern Territory government.

Mr KITSON: Kala ngulalparlipajana payirninja-yanu outstation-ki walilpalungalpa yungu.

When we asked them for an outstation, well they gave it to us.

Mr NELSON (Translating): When we have been asking you to give us the outstations, you have given us the outstations.

Mr KITSON: Allright ngulalpa yungu. Northern Territory Gvoernment-rlilpalungalpa yungu. And still kalungalpa Gvoernment-rli wurmturrungurlulpalujana holding back-manu. Still-lpalungalpa jukuru-jarrija.

OK, they gave it. The Northern Territory Government gave it to us. And still that distant Government held them back. They still didn't want it for us.

Mr NELSON (Translating): The Northern Territory government has done the right thing, has given Aboriginal people their outstations but the federal government has sort of been holding the Northern Territory government.

Mr KITSON: Ngulangurluju yangkalparlipajana keep-on-lparlipajana payirninja-yanulparlipajana and yangkalparlipanyanu kulu-jarrija, ngulalpalungalpa yinja-yanu walilparlipajana payirninja-yanu keep-on payirninja-yanuparlipajana ngula yalijilpajana jurnta pull-him-back-manu Government-rliki nyampupatu ngalipanyanguju.

After that we kept on asking them and we became angry with each other, and they gave it to us after we kept on asking, and then the Government held back that which we were asking for.

Mr NELSON (Translating): The Northern Territory government is our government, they federal government has always been knocking the Northern Territory government back from giving us what things that we have been asking for.

Mr KITSON: Nganimparlu karnalujana milya-pinyi nyampujuku. Nyampujuku yangka kujakalu Government-ji warru-wapami, milya-pinyi karnalujana and wali yalirli kalungarpa kurlirrarlu Gvoernemnt-karirli maju-manirni. That why-rlipa nyampuju yanurnu. Ngulanya kalungarpa wangkami.

These people, we know them very well. Yes, we know they are the Government, who go around to every place, and that other Government a long way off in the south is spoiling it for us here. That's why they have come to us to talk to us about this.

Mr NELSON (Translating): The Northern Territory government has been coming around here and he has been talking with us. They have always been helpful. The federal government has always stood in their way.

Mr KITSON: And jalangu yangka last year-rlipa try-jarrija three-pala four-palaku nguruku: Patirilirri, Yinapaka ...Yinapakaku, Ngarnkaku, Munyupanjiki, yangkarlipanjana, try-jarrija last year try-jarrija Government Nyampupatuku. Nyampupatukurlupajana try-jarrija. Kula nganta nyampupatuju ngurju kalu nyina, kala yalipatukarirli kalungarpa still hold back kalu nyampupatuju, kalujana hold back-mani kalujana. Last year like-rlipajana try-jarrija, try-jarrija we try to make-them outstation lawajuku. Wali Governemnt-karirlikijana nyampupatuju purami.

And last year and still now we tried for three or four places: Patirilirri, Yinapaka, Ngarnka, Munyupanji, we tried last year from these Government people. We tried (to get it) from these people. We thought that these people were good to us, but those other ones from a long way away are still holding it back, they are holding them back. Like we were trying hard for them, trying and trying, we tried to establish outstations, but still nothing. Well, that other Government is still arguing with these ones.

Mr NELSON (Translating): We have asked the Northern Territory government to purchase or to get us 4 areas of our country but the federal government has knocked it back again. From last year and before.

Mr HATTON: Have you got the names of those 4 areas.

Mr KITSON: They are Aboriginal names.

Mr LONG (In English, but indistinct): Ask-im this mob, ask-im this mob, we want to know this rule, what ..they ..made this rule. For work together.

Mr HATTON: Sorry I cannot hear properly.

Mr LONG: You not made(??) this law yet. You know, we got to know.

Mr HATTON: Is this one about the constitution?

Mr LONG: Yeah. I wish we work together.

?: Worrying Steve about lack of consultation.

Mr HATTON: That is why we come here now. This is a very important question right, really important. We come here now because we are saying that we want to start that consultation now.

Mr NELSON: See, that's why-li yanurnu wangkanjaku nganta you want to get ideas from...kujarrapiya now, nyurrulapiyarlu kujakankulu question-rli japirnini, not only wait-miparlu, mardukujurlangurlu too you know. Kajilpankulu yangka japikarla yingalpankulu find-out-mantarla story proper way.

See, that's why they have come to talk, you want to get ideas from...like this now. Like you (all) are questioning him now, not only men, but women too you know. You might ask them and find out the true story, the proper way.

Mr HATTON: See we only just now. We have been working to get some ideas together but we are not sure which way to go. We are going to you so you think about it and you come back and tell us later. We just start the consultation now. It does not matter how long it takes, we have got to do this one properly.

Thank you I just got reminded. What we have got to do too to help we want to get together some tapes in your language so you can listen to some of the different ways of thinking about it to help you tot alk amongst yourself.

Mr LONG: We think, we think ...our things yangka yapakurlangu, yangka Land Trust and for Land Council.

We think ...our things are our own Aboriginal ways, the Land Trust and for the Land Council.

Mr HATTON: That is a different one. See we are not saying that to touch that. Let me put it this way, right. At the moment your land councils, your land tursts, your land rights, they are under the Canberra government. Right, now they are under the Canberra government, the federal government. Now if that federal government change or they change their thinking, they can just take it away, they have the power.

Mr LONG: In our land we own a freehold title, how government get it?

Mr HATTON: If that federal government mob, if they change, now I am not saying tha they are going to do it, I am saying they have the power. If they want to they could just take away that law and take away that land.

If you put this in the constitution then the Canberra government, Northern Territory government, nobody can take it away.

Mr LONG: We are worrying about the Aboriginal people not putting all the rule every year, years and years, changing all the law. We only got one law.

The Aboriginal people only worrying about, we are only trying to run out place, we are worrying about money side. That is all we can sing out to government. You know we cannot change the laws.

Mr HATTON: This rule you can change. This rule. Can I think of a different way to explain it. If you want a Land Rights Act, right. You want your land rights, you want to protect your sacred sites like that one there. You want to protect your sacred sites and you want to get it so there is a law that says the government cannot touch that, right, then you have got to put that in the constitution.

Mr Toby(?) JAPANGARDI: Pipa ngajunyangu kapala jintajaarrimi.

My two papers (titles??) are going to be made into one.

Mr LONG: Yeah, I am with you.

Mr HATTON: Now that is how you do it. Right now, today governments change, new man becomes government, he thinks different, he go and do something can hurt you and you cannot do anything about it.

Mr LONG: The government he changes law, you got no..... We old people we got no brains, we do not read.

Mr HATTON: In our way, in white mans way you put them in this sort of book, this constitution, that is the same like Aboriginal law.

Mr EDE: We are not talking about changing Aboriginal law. We are not talking about going in front with that one. What we are talking about, like that one there. For the sacred sites hey. Land council put out that one there, really worried about all this new talk about law to sacred sites.

Now one thing we were talking about, we had big argument about that one. Okay, government put it back, Northern Territory put it back and said okay we leave him for little while because big argument came up and the federal government backed us up on that, so we were able to get that one back there. Okay, we won them that time but we might not win every time, that's what we.....2 like that, go straight. What we trying to do with this, trying to put things like that in the constitution to talkum together, then we will not have that trouble. That is what we

are doing. If we just leave like that and then another mob, Labor Party get chucked out down in Canberra, another mob come in and they say Oh no we don't want that land rights or that one there, and they come and we bump.

Mr KITSON: We have to fight for you mob again.

Mr EDE: And then we have big trouble again. That is what we are trying to put together.

Mr LONG: You know why, there are a lot of government fellas we know been changing all the rules. You think this rule cannot be on and on all the time, he can't understand all the time.

Mr EDE: That is why in Labor Party, why I am working with the CLP for this one because I am not going to allow it, let CLP or Darwin lawyer mob or mob living up in there to go and write this constitution on their own. They can't go writing and putting all things they think, I want everybody to come back down here so that is why we are going around every corner place, talk to everybody and try and make sure all the things that Yapa people want to come into that law at the same time.

Mr LONG: Because we no let a government fellas been changing all the law, we know for years and years but we want to know this now when we work together. You, the government not going to change this rule when we can work together. He cannot change it all the time you reckon.

Mr EDE: Well this one is going to be how you mob decide. We going to put this law in ourselves. When we put it in one of the part we got to put in that law is how we are going to change it. Now you might put in there so that 90%, 9 out of every 10 people got to say yes or you might put 7 out of every 10 people got to say yes or whatever.

Mr LONG: Because every Aboriginal people, all of Australia they know the government, you know they changing all the rules. We want to know this like you mob saying now.

Mr EDE: See these are things we need help from you from, you mob got to, that is why we are out here you have got to help us to work out how we can make this one so it fits in with what you are looking for.

Mr LONG: Kuja now ngarriminjaku nyampuju.

This is the way we've got to talk about it.

Mr NELSON: Murnma, murnma. That's why kanyarra warru wangka, japirni kanyarra every way ...

Wait a minute, wait a minute. That's why (they) are going around talking to you every where ...

Mr JOHNSON (In English): That people got to keep us before ...you know how far we got to think about it, (inaudible). That'll be I know you're really representative, what about our

community, people self there representative too. They act the same way like kardiya (white fellows).

Mr NELSON: Pirlaarli. Steve kuja wangkaja, what they're going to try to do, nyampujangkarlu, kajilpalu yangka law ngurrju mantarla, they got representatives from all over the Northern Territory. That means yapa and all. Yapa, kardiya.

Cousin (addressing S. Johnson). Steve said this: what they are going to do after this, if they make this law, they'll get representatives from all over the Northern Territory. that means Aboriginals and all. Aboriginals and white fellows.

Better than they're making him one law yangka walypalimiparlu. We got Parliament member there palka jinta yapaju, jirrama yinya Darwin-rla, yurrpurlujarra. Jirrama kapala nyina.

Better than if white fellows should make this law by themselves. We've got an Aboriginal member of Parliament here, two ofthem in Darwin, two Aboriginals. There are two of them.

But this one nganayi, this committee nyampuku, Constitution nganayi Standing Committee on Constitution, ngulangka, yalumpuju ngayi Committee-wangu kalu nyinami walku. Kala we got two yapa there in Parliament-rla, they going to give us all the support. Manu nyampulu karrinyalu.

But this thing, this committee for the Constitution thing, the Standing Committee on the Constitution, it's there, those people are not that Committee. We got two Aboriginals there in Parliament, they are going to give us all the support. And one of them stands here.

Mr JOHNSON (In English): We can wait. But we can really think, we can stick onto that idea. How we going to go, and how long we going to wait for that Constitution meeting.

Mr EDE: Might take years.

Mr LONG: Yeah, might take them more than 2 years.

Mr EDE: It does not matter. Say we going for 2 years, 3 years, 4 years, if I come back people still worried about some part and they say no that not good enough, okay we start again.

Mr LONG: People might say not happy, we can still you know. Maybe for another couple of years more.

Mr LARRY: If the Territory becomes a state, will it affect the land rights and sacred sites?

Mr EDE: Sorry?

Mr LARRY: If the Territory becomes a state?

Mr EDE: I do not want to talk about statehood because I reckon statehood is something I want to talk about after we get constitution. If we get constitution. If we put strong thing about sacred sites, strong thing about land rights in that constitution and that is what you mob have got to tell us if you want us to do it. If you want to make so that they can't change them after statehood you can put them in the constitution. That is the way to go.

Mr NELSON: Nyampu kankulu understand-jarri, yapa? Because nyampuju ngayijala kalyu warru japirni, ngayi kalungalpa warru japirni ngalipa whole-lot. Ngaka kapulu yangka pina yani wangkanjakuju, kari ngurju kujalu nganayi kujurnu Yurmtumuardingki manu willowra-wardingki manu Pupanyiwaringki kuja ...Yalikulanguwardingki, kapilinyanu ngula-kangu-kangurlu wilji-mani pipangkaju, nganayi report-kulku, you know. Ngulanjangka kapili jungu-maninjarla yirramirra kapili wangkamilki Parliament-rla Darwin-rla.

Do you understand, people? Because these people are going around to talk to the whole lot of us, getting everybody's ideas. Then they'll go back to talk about it, and look to see if they agree with what they said, Yuendumu people, and Willowra people and Papunya people ... and Ali Curung (Alekarange) people. Then they'll get together and discuss it, for making a report, you know. After that they'll put it all down and leave it and discuss it in the Parliament in Darwin.

Mr EDE: If nobody joins in and helps us to make this constitution, help us to write up and we end up other side of statehood with nothing about sacred sites, nothing about land rights in that constitution that means they got no fence around that government, they can go out and change anything.

Mr NELSON: That's all. Kujakujaku now kalunyarra japirni again yalumpuku-kula yangka Sacred Sites-ki Land Rights-ki ngulaku. Still-li there mentioning-manulu nuu kapilingalpa jurnta-kanyi nyuampurlu Government-rli, walku. They still got to wait for the answer ngalinpanyangu.

That's all. To avoid this, they've gone around to ask you all again, it's for that, for Sacred Sites and for Land Rights. That's what it is for. They're still mentioning it, otherwise they might take it away from us. They still have to wait for our answer.

Mr EDE: That is not what you are saying. If after statehood we don't put in that constitution they can change them. But if we put in that constitution and make that constitution really hard, really strong, okay then we are safe afterwards.

Mr NELSON: Yawarda-nyanyi kankulu, really ngurju yalumpuju wangkami ka. Because nganayiki yangka, ngayijala nyampu idea-rlangu kalu mani yapakurlangu nyurrulanyangu,

ngulajangka kalu pina yani, kapili wankamilki Parliament-rla Darwin-rla. They'll talk and work it out: 'Oh yes, nyampu so-and-so and so-and-so ngurrju kujaju wankaja.. Yuwayi, nyampulu agree-jarrija Yurntumuwardingkipatu, nyampu kujalu agree-jarrija Willowra-wardingki-patu, ...kuja!' Kapili yangka pipangkalku ...(tape ends before he finishes).

You heard that, it was really good what he said.. Because that's why they're going to get ideas from you Aboriginal people, after which they've got to go back to talk about it in the Parliament in Darwin. They'll talk and work it out: 'Oh yes, so-and-so and so-and-so, he was right. Yes, people from Yuendumu agree about this, people from Willowra agree about this, ...like that!' Then they'll (.....) it down on paper ...(Tape ends before he finishes).

NOTE: This is the end of the transcript for Willowra. The tape following has cue sheet but the tape itself is blank. It is tape 076 which follows tape 074. Tape 075 was used for women's meeting.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

HARTS RANGE — Wednesday 12 April 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 Anthony PETRICK (Translating)
Mr Lindsay BOOKLEK
Ms Agnes PETRICK
Mr Alec PETERSON
Mr Toby PAULAR

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

Mr HATTON: Thank you for the chance to meet with you today. My name is Steve Hatton and I am the chairman of this parliamentary committee. You know Brian Ede who is on the committee too. If you look in the back of the books that we sent out, you will see pictures of the people who are members of this committee of the Northern Territory Legislative Assembly, the Northern Territory parliament. It is different from other committees because it has 3 people from the CLP, the government side, and 3 people from the ALP, the opposition side, both on the same committee. We are working together. You know that, in politics, the government and the opposition, the CLP and the ALP, argue about a lot of things. This time, we are all saying the same thing. We are working together on this one because this job that we are working on is too important. It is the most important job that we can do in the Northern Territory and we do not want to play politics with this one. We want to work with the people and get something for all the people.

Our job is to work with the people to write a special law which we call a constitution. This is a law that comes from the people and, when you make it, it becomes the boss over the parliament, the boss over the government and the boss over the courts. It is a law that comes from the people and the government can't muck around with it. It has to stay there and only the people can change that law. You remember that, last year, you had to vote on a referendum and say yes, no, yes, no. That was for the Australian constitution. The government wanted to do some things and the people had to look at it. They were not sure about it and so they said no. That stopped the government. This would be the same sort of thing for the Northern Territory. It would be the rules that the people make, the laws that the people make. It would tell the government what it can do and what it can't do. It would be a very strong law.

Many people talk about Aboriginal law and say how it is always there, doesn't change, stays the same. The white man's laws keep changing all the time. A new government comes in and it changes the law. The laws change back again, backwards and forwards all the time. But, this one is more like the Aboriginal law. We write this one and it stays there. The government can't change it, the government can't muck around with it. It doesn't matter who is the Chief Minister, the law will stay the same because it is the people's law.

So you can see that this is a big job. We put in this law those things that are really important to us. We might put in things to protect Aboriginal land rights, sacred sites and Aboriginal culture and language. We can put in this law things to protect your right to vote and the right of people to stand for parliament. What you put in there are the really important things. This law, when it is made, will determine the way the Northern Territory is going to go in the future. There is no mucking around with that one. You just leave it and it keeps going that way.

If you think of a person, he has a skeleton and bones which give him shape. It is inside and it gives the shape for the hands, the arms, the body, the legs. It gives the shape and the strength. Outside the skeleton and outside the bones, you have the flesh, the skin and the blood and all the things that fill it out. This constitution is like the skeleton and gives the shape and tells us how we are going to go. Then, we make other laws which are like the flesh. But, whether you are fat or skinny, strong or weak, black or white, the skeleton is the same and stands up the same. What we are talking to you about now is the shape that we want the Northern Territory to be. How do we want this Northern Territory to go? How are we going to make laws that can bring Aboriginal people, white people and everyone together with some sort of respect and understanding? How are we

going to live together and build the future together because we are all people of the Northern Territory whether we are black, white, Chinese or whatever? Somehow we have to work out how we are going to live together for the future for our children and for our grandchildren. This law with do that for us.

I can't write that law for you. He can't write that law for you. The people here, the people at Ti Tree, the people at Uluru, the people in Arnhem Land, the people in Darwin - everyone has got to get together and think about it carefully and say what sort of things they want to put in there. When you make it, you must make sure that it is a good one because, after it has been made, you can't change it. We are going around now asking people to think about this law and the sort of things they want to put in it. What sort of a place do you want the Northern Territory to be like for your children? What sort of rights do you want to protect? Start talking about it because it is only by doing that we can start to all work together for the future, to protect the things that are important to us.

You have heard a lot of talk about the Northern Territory perhaps becoming a state. There has been a bit of talk about it. Some people say that it is a good idea and other people don't like it because they don't think we are ready for it. But, until we do this job and you know what you want, we can't even talk about that. We have got to do this job first so that we know what sort of place this Northern Territory is going to be like. When we know what it is going to be like and what you want, you can make it work that way. Then, you can ask whether we should be a state or not. We can't even ask that question yet. This is the first job that you have to do. All the states have a constitution - Queensland, Western Australia, South Australia, New South Wales, Victoria and Tasmania. There is also a constitution for the federal government and that is the one that we voted on last year.

But, the Northern Territory does not have a constitution. There are no rules. We are sort of wandering around not knowing where to go. This is a chance for you and for all the other people in the Northern Territory, for the first time, to say what you want this Northern Territory to be like and to make something real for your home. It is a job that we must do and we must start doing it now because, without it, we are not going to get anywhere, not going to fix your problems. We want a good place for our children and our grandchildren to grow up in. We want our grandchildren to look back and say that we did the right thing for them because we left a good place for them to live and protected their rights and their future. You fight for land rights, you fight to get your land to live on, you fight for your rights and you protect your rights and your future. You can do it through this. We must do this not only for ourselves but for our children and grandchildren. It is so important because it is going to be so deep, so strong. We have all got to think and talk about it.

I am not here today for you to tell me what you want to go into it. I come here today to tell you that we are going to start doing this job and we would like you to start thinking about it. Ask any questions now, go away and talk about it, ring us up or write to us and ask us to come back and tell you more about this or that. When you are ready, you can tell us what you want to put in it. When you have done that, when you have thought it through, you can come and tell us what you think. The other people from all around will tell us the same thing or different things and we will put it all together. We will sit down and try to write something up. But, that is only the first try. To make sure that we have got it right, we will call together a special committee of representatives of

people from all over the Territory. Those people will look at the work that we have done and perhaps agree with some things and change other things and fix it up to make sure that it is what the people want. When they finish that, they will have this proposed constitution. Then, that will be put to a vote of the people, as was done last year with the federal constitution. The people will look at it and either agree with it or say no. If you are not sure that things are right in it, say no and we will start all over again.

That is how we are going to go about doing it. It will not be quick. It might take 3 years or 5 years or even longer. What is important is that we do it properly and that, for once in the Northern Territory, we all work together to try to get something for the future. All I came here today to do is to tell you about this job. We are asking you to start thinking about it. I will ask Brian to say a few words and, if you have any questions, please ask. We want you to understand what we are trying to do. We want that law for the people. It is a people's law. It is the boss over the government and the courts. It is the people making the rules for the future. That is what we must do.

Mr EDE: When I travel around my electorate, to the north and east and west of here - I don't often get down this far because this is Neil Bell's way - one thing that people keep on saying to me is that the whitefellow law keeps on changing. They say that it is really hard for them because they don't know where they are. They are going along and they think they have it okay and then the government says it is going to change it or somebody in Alice Springs says that the federal government is going to change the law. Everybody gets frightened and says: 'How are we going to get on after that? What's going to happen? Are we going to have to go charging off to Canberra again or are we going to have to go up to Darwin and sing out and make them alter that law? What are we going to do? Is it going to be better or is it going to be worse or what?' Everybody says: 'That is not the way our law is. Aboriginal law goes one way for thousands and thousands of years, just straight. But, you mob, you going like this. You are not straight; you are all over the place'.

That is true for lots of things. When you think about it, this government business is pretty dangerous business because it is really powerful. The government can make a law looking after everybody's sacred sites and come along the next year and finish that law and, if it wants to build a road, can go ahead and bulldoze that sacred site. Governments can do that. They are pretty dangerous business that government. The reason why I am here, why I am part of this one and why I want to stay with this constitutional development is that we have to do something to make that government not so dangerous. The thing that is holding it back now is that we are still a territory. We are underneath Canberra. But, we are not going to be a kid all the time, underneath Canberra. We are going to be grown up some day. We have got to look after it and make sure that it goes properly.

At the moment, you can say that it is a bit like you got a cheeky dog, bull terrier, that is always biting people. What do you do if you have got something like that? You put a rope on him and tie him up. You say: 'Righto, you can run around in that part'. That is what a constitution is like and what it does to the government. It puts a rope on it and says that it can go so far but no further. What we are trying to do is to work out how long a rope we are going to give the government. How much are we going to allow it to do and when are we going to say: 'No, stop! That is enough'? We do that by thinking about what are the really important things that we do not want to

change. What are the things that we keep the same all the way in Aboriginal law and that we do not want to change? What things from there could we put into this constitution? We are thinking about things like protection for land rights, sacred sites, culture and language. How are we going to protect those afterwards? Those are the things that we have got to think about. We also have to think about other things. We must make sure that every person who gets into trouble has the right to go to court. We must make sure that people have the right to decide whom they want to be a member of parliament for them. In some countries, people do not have the right to vote. We have it in Australia because the federal constitution comes down to us.

But, we need our own constitution here so that we have got one for the Territory. Other places around Australia, like Queensland, New South Wales, Victoria, Western Australia, South Australia, made their constitutions over 100 years ago. When they did it, a few lawyers and a few politicians got together in a room in Brisbane or Sydney or wherever and they sat down and wrote out the constitution. They said: 'This is what we reckon it should be'. We do not want to do it like that here in the Territory. Here in the Territory, we want to do it properly, from the people, the way it is supposed to be done. That is why we do not have some clever mob of lawyers or whatever from Alice Springs or Darwin sitting in the Chan Building up there and saying: 'Okay, this is the way that we are going to do it'. That is why we are travelling all over. We were at Nyirripi the other day and at Docker and Finke. We were at Ti Tree today and tomorrow we will be at Wallace Rock Hole. Then, we will be heading up to Borroloola, around Arnhem Land and everywhere because we want to open this one up for everybody. We want to get it open so that everybody knows that this is not something that we are trying to hide. It is not something we are trying to be sneaky about. We want it to be open all the way so that everybody can have his say. What are the important things that we want in a law like this, in a constitution, a law that will not change? What are the things that we are going to tell the government that it cannot muck about with? If there is to be any change, there has to be a special vote on it.

That is what we are really here for now. It is to tell everybody that this is starting off and to ask how we are going to make sure that everybody is involved in it. We have been talking to other places about the idea of sending out tapes with stories on them and putting some songs and things in with the story and having them in language so that people can listen to them that way. Others are talking about different ways that we can do it because it takes about 4 months or so for us to travel right around as a committee. We will travel around, send out all this stuff and then come back again.

I suppose the most important thing to think about is what we are trying to get to. We are trying to get a place where everybody, whether they are Aboriginals, whitefellows, Chinese, Vietnamese or whatever, can say: 'This is our Northern Territory and we respect each other and we respect each other's customs and culture and people can live together. It is a place where everybody can have a fair go, a good chance for an education, a good chance for a good job and a good chance to live properly'. We are trying to make that sort of Northern Territory. We can't have 2 sides with Aboriginal people here and non-Aboriginal people here. We are not trying to kick them over like that. What we are trying to do is get them like that so that it is square and everybody has the same fair go.

To do that, everybody has to have their say and work it out. Some people have got to say, 'Righto, we will back off a bit', and other people have got to come forward a bit. Everybody has

got to talk about what they are after, what they really want, and explain it properly. They must not say: 'Look, I do not want to be part of this thing. You mob do that. I am not going to get involved. I am not going to talk to you about that'. That is not the way to do this one because it is really important for our kids and for everybody. We want our kids to be able to look back and say: 'We read those stories about how bad things were in 1890s after Barrow Creek. We heard about the Coniston massacres but, in the 1980s and the 1990s everybody got together and worked out a law for us and now we are all really good'. If our children and grandchildren can look back like that, then we can all be proud. We can all say that we put all those bad times behind us and created a Territory where everybody felt right about things, about protection for their sites and culture, and are living a good life here.

It is not going to be easy. Lots of things have to be talked about and argued about. But, if we do not try, we are never going to get anywhere. We have got to keep trying. That is why, when we you see something that you do not agree with, you must say so. Don't say that it is all too hard. You must say: 'No. I don't like that that way. I want to change it'. Everybody has to keep talking about how to change it. It does not matter if it takes 1 year, 2 years, 5 years or 10 years. We will keep on putting it back until we work it up and get it right. What is 10 years? It is nothing when you think that Aboriginal law has being going for thousands of years and that the Northern Territory, this land, will still be here in thousands of years. It does not matter if it takes us 10 years. We have got to get it right.

Mr HATTON: Do people understand what we are saying?

Mr TONY PETRICK: Wale if you mob something atyenge ilerle, wale I'll ask em next time when they come up here, might bring somebody and interpet'em (inaudible), somebody that can read and write, (inaudible).

Well, if you mob can tell me something. Well I'll ask them next time when they come up here. They should bring somebody to interpret, (inaudible), somebody that can read and write, (inaudible).

Mr HATTON: Do people understand what we were saying? Yes.

Mr TONY PETRICK: Arrantherre understand irreke nthakenhe ilekarle? Aye?

Do you all understand what they've been talking about?

UNIDENTIFIED MAN: Awethe. **(Again)**

ANOTHER UNIDENTIFIED MAN: Ye. **(Yes)**

Mr TONY PETRICK: Mwerre arle re ilekaye. (It was good what he said, eh?)

ANOTHER UNIDENTIFIED MAN: Ye. **(yes)**

Mr TONY PETRICK: There's grandchildren want think about - if they talking about arrantherre understand irreme iwenheke angkeme arle aye?

There's grandchildren to think about - if they are talking about - Do you all understand what they're talking about?

UNIDENTIFIED MAN: Grandchildren nhenge ingkerne iperre (inaudible) ... ampe arrekantherre renhe ingkerne iperre mape schooleke irrpeme arle. Warlpele way carry'em on iletyeke, ante urrperlekenhe way carry'em on iletyeke.

Our grandchildren, the ones who come after us (inaudible), you mob's kids are going to school. They've got to carry on the white way and the Aboriginal way.

Mr HATTON: The people do not have to tell us today what they think.

Mr PETRICK: Next time when you come back.

Mr HATTON: What we are saying is that this time we merely telling people what we are going to start doing. We have brought this book and other books. We will put stuff on tape in language so that people can think about it and talk about it among themselves. We will come back and then you can tell us what you are thinking. We can tell you what the other mobs are thinking and you can agree or disagree with that and talk about it. It is going to take a few years.

Mr EDE: We are just opening it up now.

Mr HATTON: Here is a job that we have got to do and we have got to take one step first. The first step is to tell people what we are doing. We do not expect people to say to us that they think we should do this or we should do that, unless they want to. If they want to go away and have a think about it first, that is fine.

Mr PETRICK: They don't want to tell you today, but they can think about it and tell you next time when you come back.

Mr EDE: That is the best way because it is too important to do it straight off. The best way is to think about it, talk about it, make a tape of ideas and send them off.

Mr BOOKLEK: Let's get things from town.

UNIDENTIFIED WOMAN: ...Aboriginal person (inaudible) to thing you know, interpret.

UNIDENTIFIED MAN: Interpreter we want, because they can read and write and interpret (inaudible) talking so this mob understand.

Mr HATTON: We are going to need to do that. What we need to do is work out ...

Mr BOOKLEK: The land council will come out and tell us something different.

Mr HATTON: That is why it is better for us to come straight here and you hear it straight from us.

Mr BOOKLEK: See we are happy that you mob come out today instead of the land council come out and tell us all the time. We are happy to see you people come out and talk to us today.

Mr EDE: We want to have a meeting with the land council too because we think that they do not understand what we are doing. They think that we are tricking them or something. I hope that, if I can really explain it to them, they will agree that they should be doing this too. They should be saying that they will be part of it and we can all work together, land council, Congress, all people from out bush and from town. We are all part of the Territory and we have all got to put in our ideas. You cannot say, 'I don't like what you are doing', and walk away. You have got to be in it.

Mr BOOKLEK: (Inaudible).

Mr HATTON: Well that is all right. They can come out here and tell you, but you can think for yourself. Do you want to have your say on this or do you want some other mob to talk for you?

Mr BOOKLEK: (Inaudible).

Mr HATTON: That is right. That is what we are saying. We have got to make sure that you know what is going on so that you can have your say.

Mr PETRICK: I would like to tell you a few stories now about the old people. What they don't like is the land council is something that the coloured people have from the city and all that and they do not even know what they are talking about. That is why we are happy to see you people come out and try to talk to us. It is a better way to do it because once some of them coloured people that work for them come, they tell lies and this going to be real hard for you people. Last time they come here ...(Indecipherable).

Mr EDE: We will try to change their way of looking at it. Okay, they are trying to look after land rights and that sort of thing, but they have to realise that, at the moment, they are relying on the federal government. I am talking now from my side. I am from the Labor party and that is the Labor party down there. I believe that the Labor party in Canberra is going to hold on strong for that Land Rights Act, but for how long is the Labor party going to win in Canberra? Some day, if they get chucked out and another mob comes in, it might be somebody who does not like land rights at all and who will scrub it out. Where will we be then? The best way is for us to have it in our constitution up here as well. Then, if they fall down from that side, we can still hold on to it up here. That makes sense to me and I can't see why the land council is not agreeing and saying: 'Okay, let's have it in the constitution and then we have got it tied in 2 ways'.

Mr HATTON: Then, the government can't touch it, no matter who is in government. Only the people can change it and the people are not going to change it. You have got to think about things like that and make sure that the government can't touch this one. It is for you to decide. We are not saying what you can put in there or what you can't put in there. We are asking you to think

about it and tell us what you think should go in there. We have not walked in here to say: 'Look, we have written this pretty law. It looks pretty good, don't you think? Don't you like the pictures and the stories? You say yes to this and we will all be happy'. We are not saying that. We are saying that we have got to start work to write that law and you have got to think about it.

It is your law, it is not the government's law. We can give you ideas. You reckon that book has got big words in it, look at this one. We have been working on this now for 3 years and we looked all over the world. We looked in America, Canada, the West Indies, New Guinea, Africa, New Zealand and other parts of Australia to learn about all the different ideas they have for constitutions. We ask all sorts of funny questions in here. Should you have to go for elections every 3 years or every 4 years? Do you write that in here so that the government cannot muck around with that? What can the courts do? Can the Administrator or the Governor sack the government? There are lots of funny questions. There are things in there that I do not like. There are things in there that Brian Ede does not like. There will be things in there that you do not like and there are other things that you will not like. We put them in there whether we liked them or not so that you could see the different things that perhaps you would like to do. You might think of other things that we did not think of. That is part of it too.

Mr EDE: We are going to leave some copies of this book for people to go through.

Mr HATTON: Remember that we talked about that committee. When we have finished our job, it will go to what we call a constitutional convention which is a big committee of people who will look at our work and make a draft constitution. We are not just going to pick these people. We are also asking you to think about who should go on that committee. How should we pick them? It has got to be very much the people's thing, not the government's thing, not the parliament's thing. So we want you to work out how you are going to get this mob together to do the work.

Mr EDE: We are just doing this from the parliament in order to kick it off. This committee, which has equal numbers of government and opposition members, is just to get it started. We will go around, give out ideas and get everybody really talking about it. When things start to come back and some ideas start floating to the top, we will just skim them off and hand them over to this convention of people from all over the Northern Territory. We can then back off because that convention has got to decide whether our work was all right and work it up and balance things. When they have done that, they will have to go back out and ask all the people to vote yes or no. If it loses, we will just start over again and again until we get it right.

We are not going to try to push people into saying yes if they are not happy. What I am saying to everybody is that, if it has 10 bits in it and you think that 9 bits are all right and 1 bit is not all right, then you should say no to the lot and tell them that it is not yet right. It has got to be all okay. In going through that, everybody will be talking to each other because they will all have to try to work out how they can get something that everybody agrees to. That is what is going to pull all the whitefellows and Aboriginal people and all these other mob together because they are going to have to talk and explain to each other. Aboriginal people will have a chance to explain what they are after and why sacred sites and those lands are so important. That will help a lot of whitefellows to understand and open up their minds a bit and not just grog talk about the place about blackfellows doing this and that. It will make them understand more and help this coming together in other ways.

Like we said, it is not our thing. We are just opening it up and then we will hand it over to the people. It is one for the people to work up.

Mr HATTON: You thought you had just a couple of meetings to make it hard, eh?

Mr BOOKLEK: Do we have to write it on paper or what?

Mr HATTON: We can come here and you just tell us.

Mr EDE: Any way you like. You can put your ideas on tape, somebody talking into a tape recorder.

Mr PETRICK: You will come back?

Mr HATTON: Yes, we will come back.

Mr EDE: We will be coming back anyway. But, even then, if somebody forgets to say something, he can put it on tape or write a letter and send it in. We will be travelling around this time and we will probably be back at the end of this year or early next year. We will be back, but we will be sending out stuff and, if anybody wants to send some back, that is okay too.

Mr HATTON: When you see this stuff coming through, you will know what it is all about and you will not just chuck it in the bin. If you know what we are doing and why we are sending stuff to you, it will mean more to you, won't it? It will not be just another bit of paper from the government. When we come back later this year or next year, rather than us being here for just an hour or 2 hours, maybe we can get people from all around the place to come to one place and we can sit there for a day or two and really talk about it.

Mr PETRICK: We can listen to you mob and ...

Mr HATTON: And go away and think and then come back.

Mr TONY PETRICK: Alakenhe kwenhe anwerne nhenge awetyarte Land Council mape ngkerrerlenge.

That was what we heard the Land Council taking about.

Mr HATTON: That is when we start to talk about the bits and pieces. At the moment we just want to tell you what we are doing so that you can start to think about it.

Mr PETRICK: I was going to ask you a few questions but I leave it until next time. I will ask you next time when you come back.

Mr HATTON: Do you want to ask the questions now? If you don't want to, that is fine.

Mr PETRICK: Is is not only me. These other people want to ask too.

UNIDENTIFIED MAN: Apmere ameke-ameke apeke arle the aretyenhe aneye, nthakenhe arle meke-meke irreyty. illetyenhe anteme, (inaudible) meke-meke thayete, pmere

atywerrenge thayete arlke akaltyre irreyenhe artwe ilemele ileyewe. Kele arle renhe holdeme ileyewe. Can't you mob warpele alakenhe apaye uthnerle.

Warpelekenhe law one thayete ante artwekenhe still one thayete arle keepem going arle iletynhe, nhenge re ilerne ingkerre.

I'm looking at sacred sites, what's going to happen to them (inaudible). We've got to talk about sacred sites, our sacred country, and making young men and what they'll learn. So we can still keep it. Can't you mob ask the whitefella about that? Whitefella law can stay one side, and we keep our law on the other side.

UNIDENTIFIED MAN: What's wrong with that?

UNIDENTIFIED MAN: Artwekenhe law can't changem nhenge alene ingkerre. Artwekenhe law yanhe renhe inpe arle amangkeke arle re ilerne ingkerre. Pipe, pipe ante akenhe nhenge changem ilemele iweme. Alakenhe arle re nhenge apaye uthn. (inaudible). Yanhe renhe artwe next timeke, artwe ante areye angkerreye arleke?

Aboriginal men's law can't be changed. Aboriginal people have grown up with the law. But, laws that are written on paper can be changed and thrown away. That's what we should ask (inaudible). That will have to be left until next time, until there is a meeting of only men to talk about it.

Mr TONY PETRICK: Aye, if we ask em now, it will be a bit too quick, see. (inaudible) Wale this is one what he been asking now is two law. White people's law, and Aboriginal law. You want to say on that Aboriginal law? Aye?

If we ask them now, it will be a bit too quick, see? (inaudible) This one he's talking about is about having two laws. Whitefella law and Aboriginal law. Do you want to say anything on that?

UNIDENTIFIED MAN: Atherrele anteye (inaudible) (Both ways)

Mr TONY PETRICK: You want a/to say on two; white side and Aboriginal law side you mob should tell em like that.

You want both; white law side and Aboriginal law side. You should tell them that.

(inaudible: a number of people talking)

Mr EDE: The Aboriginal law goes like that. This one is to try and pull that whitefellow law so that the 2 are going the same way. We do not want them going like this. It is trying to pull them together.

Mr HATTON: You must think about what you write into this constitution so that it says that Aboriginal law must stay there and be strong. In that way, you can strengthen Aboriginal law in the white man's way so that it makes the government recognise the Aboriginal law. That is the sort of thing that you can put in a constitution and make the 2 laws go side by side.

Mr TONY PETRICK: Wale look it this way. I'll maybe talk English. (inaudible). Itelarerlanerraye. Artwekenhe law re anetyeke, ahelhe inpe arle amangkeke, artwekenhe law re anetyeke, kele arle anetyeke Warlpelekenhe pipe yanhe akenhe law lyete changem ileme, next year inerte pipe law yanhe iwemelarle.

Well look at it this way. I'll talk in English (inaudible). Thank about this. Aboriginal men's law has got to stay. It's grown up with the land, and our law stays that way. White man's paper and the laws written on it today can be changed next year and thrown away.

UNIDENTIFIED MAN: Yewe yewe. (Yes yes)

Mr TONY PETRICK: Kele artwekenhe law akenhe ipmentye anthurre arle, alakenhe. Wale, rareye wanteme irreme warlpelekenhe law ampenge iwetyeke, urrperlekenhe law yanhe uthene lipele akwete anetyeke, nhenge change-em ilerlanetyale, you know.

(inaudible: many people talking)

No, artwele kele law inetnyirretyeke, artwekenhe law anetyeke, artwele still atnyenetyeke law renhe.

What, what he trying to tell us, he's trying to tell you mob is a Artwekenhe law anetyeke, ante warlpelekenhe law anetyeke, no causem ilemele argument irretyeke warlpele uthene.

And Aboriginal men's laws can never be changed. Well, they want to put it together with whitefella's law, but its got to be equal to Aboriginal law and you can't change it, you know.

No, men have got to hold on to the law so that men's law will continue. What, what he trying to tell us, he's trying to tell you mob is a... there's got to be Aboriginal men's law and whitefella's law, not starting an argument with the whitefellas.

VARIOUS MEN: No, no.

Mr TONY PETRICK: lipele anetyeke. (They've got to be equal)

UNIDENTIFIED MAN: One law, one law, artwekenhe law mpwaretyeke (inaudible).

One law, one law, men's law (inaudible)

(too many speaking)

Mr PETRICK: They are talking that that is a good idea. Aboriginal people keep their law and white people keep the law with them. Did not want argument with the white people. Didn't want the white man come and arguing with us for our country.

Mr HATTON: And you can get it so that the laws can stand side by side and not fight each other. You do that through your constitution.

Mr PETRICK: We can talk like a bit later, next time you come back.

If anybody wants to talk on tape, somebody have to do it for them?

Mr HATTON: No, they can talk in their own language and there will be somebody else to interpret it.

Mr PETRICK: You lot interpret it?

Mr EDE: This time, we are just talking out like that. Next time, we will be wanting to get stuff back and so we will be bringing proper, professional interpreters from IAD or wherever.

UNIDENTIFIED PERSON: We don't want ...

Mr HATTON: I can't understand Wenton. He speaks so softly.

Mr EDE: If Wenton wants to talk to someone to get to there, Wenton goes like this.

Laughter.

Mr TONY PETRICK: Arrantherre apeke anything angketyeke wantem irreme itnekenge? Aye, (inaudible), arrantherre apeke arle next year nhenge itelaraye.

(Many talking).

Do you mob want to say anything to them? Hey, (inaudible) you mob might think about it for near.

(inaudible: many talking).

UNIDENTIFIED MAN: Argument irreyenhe ware, apetyeke inetyeke. Let us know, that one ever come, ext time (inaudible) argument apeke irreyeke.

There might be an argument. Let us know, if that one ever comes back, next time (inaudible) if there's going to be an argument.

Ms AGNES PETRICK: Nhanhe itne kwele antye neme urrperle mape kenhe lawe kele ampeke arrernetyeke. Itne can helem ileme urrperle mapenhe aye. Artwe nhakwe mape argument irreme itnenhe inetyeke arle, kenhe nhenhe mape antye neme urrperle mape helpem iletayeke arle see, nyente iletayeke anteme itne antye aneme.

These mob want our laws to be put together with their laws. They can help Aboriginal people. Those men want to argue with the, but these people want to help Aboriginal people, they want to make us all one.

UNIDENTIFIED WOMAN: Anyente aneme itne aneke?

Stay one together.

Ms AGNES PETRICK: Itne raketye alpetyankenhele, kele itne itelareme arle one law kwete arle Aborigine mapekenhe, see. Only warlpelekenhe unte ame think irreme? Warlpele twerte, urrperle twerte neme nyente irreme kele, nyente kwete nteme neme. Warlpelekenhe law nhakwe iletayehenge kenhe urrperlekenhe lawkele nhang re kwete arle irtnarlanetyehenge. Arrkwelenye nhang kwete arle.

They can't take away our law. They know Aboriginal people have got one law. Are you only thinking of whitefellas? Whitefella and us, we're all together. Whitefellas can have a law but our law will continue as it has for thousands of years.

Mr PETRICK: You have to think about the early days, you know. People want these law changes when people used to work on the stations. People on the sacred site and country, they used to tell the station not to go there, not to take any kids there. Well, they used to do that. They used to listen that way. Now, it is some other people that have got to go stirring it up. Some come out and say: 'This law is going to be hard for your people and these mob will come out here and tell them ...

Mr TONY PETRICK: Wale impeme next timeke. (Well, leave it for next time).

Mr HATTON: Okay?

Ms AGNES PETRICK: Ye they got go every station. Kele arle itne nhakwe thayete mape alheke arle.

We can talk about it to ourselves then. Yeah they've got to go to every station. They've already gone over the other side.

Mr HATTON: We sent a message to Bonya and Alcoota but I don't know what happened.

Mr EDE: Yes, they are. They are at a school opening today.

Okay, thank you everybody. That is it.

Mr PETRICK: Thanks for coming and nice to see you.

Mr EDE: We will be back.

Mr BOOKLEK: It is good that you people come out and see us anyway. We like to see people come out and talk to us. It is better to see your face than somebody else coming along and telling us.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

TI TREE — Wednesday 12 April 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 Eric PANANKA
Mr Johnny JUNGARAI
Ms Alice GOREY
Mr Jack COOK
Ms Peggy NANGALA
Mr Mick ARUNDEL

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

Mr HATTON: Thank you for having us here to talk to you. We want to talk today about a job that we are doing in the Northern Territory parliament. You have politicians and ministers coming down at different times. Often politicians are fighting about this and that. Sometimes there are jobs that we do which we are not fighting about. This is one of them. If you look in the back of the book that we gave you, you will see pictures of the people who comprise this committee. I am the chairman of the committee and Brian Ede is the deputy chairman. There are 6 people on the committee, 3 from the CLP, the government side, and 3 from the ALP, the opposition side. Thus, there are equal numbers and we are working together on this one. We are not arguing about it. We are trying to do this job for everybody in the Northern Territory.

Our committee's job is to work with the people and to help the people to write a very important law. As Brian says, Aboriginal people sometimes get confused with the white man's law because it keeps changing all the time. The Aboriginal law is always the same and it keeps going forever. People cannot understand why the white man's law keeps changing backwards and forwards all the time. Sometimes, in the white man's law, there is one law that does not change. This is a law from the people, not from the government. This law is the boss over the government and that is the sort of law we are going to start writing for the Northern Territory. Everywhere else in Australia - Queensland, New South Wales, Western Australia, South Australia, Victoria, Tasmania and the federal government - has a constitution. The Northern Territory does not have one yet. We do not have a law from the people that tells the government what it can do it and what it cannot do. This is a special, strong law that the government cannot muck around with. This is a law that only the people can change. We must have this law to build for the future. It doesn't change and you build up from that. You protect your rights in that law so that no one can muck around with your rights. Maybe you put in that law things about sacred sites or about Aboriginal law, about your language, culture, land and other things. You could put in your right to vote for the government, your right to elect Brian Ede into the government and make him come and talk to you and, if he doesn't do a good job, your right to get rid of him and put someone else in there. How are you feeling?

Mr EDE: No problems.

Mr HATTON: That is a really strong, important law. You put those things into what we call a constitution. Because this law is going to last for a long long time, everybody in the Northern Territory - Aboriginal, white man, Asian - has to talk together and make this a good law, something that we can all say: 'That's good. That's where we all want to see this Northern Territory going in the future'. This law will give us the way to go.

We come to you today to say that we want you to sit down and start thinking about this and about the sort of things you want to put in there. I do not want you to tell me today. It's too big. You need time to think about it and talk about it. Maybe you want some more information about something. You can tell us to come back and explain things to you after you have thought it through. You can then tell us what you think should go into this constitution. We are visiting communities all over the Territory. We have been to Kintore, Docker, Finke and we are going to Arnhem Land and the VRD. We are going to Darwin, Alice Springs, Tennant and all over. We are talking to all of the people.

We are saying the same thing to all the people: 'Start thinking about this law. We must start talking together about this and make a good law and make the Northern Territory a good place for our children and our grandchildren'. If we make a strong law, we will grow together in a place that we can be proud of. We put in this law the things that are important to us and that we do not want the government to be able to muck about with. We are starting this job now. I am not asking you whether you think that the Northern Territory should be a state. Some people think that is a good idea and some people think that it is a bad idea now. I am not asking you that question.

What sort of state you want? You haven't got this law; you don't know what you want. You have got to have this constitution law first, then you worry about whether you want to become a state. This is the first thing that we have to do and it is going to take a long time, isn't it? We have to talk and talk to all sorts of different people, get all sorts of different ideas and bring them together bit by bit. The way that we are going to do that is that Brian Ede and myself and the other members of this committee are going to put down on paper what we think the people are telling us. Maybe next year, after people have had a chance to think about it and tell us what they are thinking, we will put down what we believe the people are saying. We then want other people to look at it to make sure that we have got it right. We will get a big committee of people from all over the Territory - the station people, the miners, people from the towns, people from the cities, women, men - who will sit down and look at this. They might say: 'Yes, that's good. Change this. Fix that up'. When they have done that and think they have got it right, the law will be put to the people to vote yes or no. If you think that it is a good law, you say yes. If the people think its a bad law or not right yet, they say no and we go back and start again. We keep working until we get a law that the people of the Northern Territory want. That becomes the people's law, not the government's law. Only the people can change that, not the government. It is the boss over the government.

That is the way we are going to go about doing this and it will take a long time. It must be done properly because this is the way we will provide for our future, our children's future and their children's future and make it a good one. It is a job that we must do. If we don't do this job, if we say that it is too hard and walk away from it, then our children are not going to thank us. They will say that we did not do what we should have done for them. If we do this job properly, our grandchildren will look to us and say that we made a good place for them and that we were good people. If we do not do it, they will say that we failed them. We must work for our children and our grandchildren and build that future by building this strong constitution law together.

I don't want to talk too much more. There are many things to think about. Eric, do you want to talk to the people about some of what I have said? Or Brian, do you want to go first? If you have any questions about what we are saying, please ask.

Mr EDE: Everybody knows that most of the time when I come around talking, it is about water or housing or about whether your schools are all right or whether your clinic is all right. Those are the sort of things that most of the time the politicians are working on, trying to find out what the people want, what they need, trying to see if we can write letters, see if we can get the government to give a bit of money or fix it up a bit. Today, we are not talking about that.

People bring up all the time this problem of whitefellow law. They say: 'Our Aboriginal law going straight way all the way, never change, everything thousands of years, but we keep hearing about this white law going to change this way and they are going to change them that way. People

get frightened and worry about how they are going to be, what is going to happen. What are they going to do? Are they going to change the law about our sacred sites and are we going to end up having a fight again, are we going to have to go back down to Canberra and have another argument back there or are we going to go to Darwin and try and make argument about that to try to fix it up? People don't want to have argument. They don't want to have fight. They want to be able to sit down good in their own country, look after sacred site, look after the law'.

To do that, we have got to have some of that whitefellow law which brings in some of that Aboriginal law, a law that doesn't change. It has to be something that is strong and will be there forever and ever. Other laws might be about having a driver's licence or about how fast you can go on the road or something like that. Okay, those ones might be changing all the time. But, there are some really important laws that should not be changing all the time. You have got a law to look after sacred sites from Aboriginal side. We need to have whitefellow law that goes along side it like that. If they go 2 together like that, that means the Northern Territory can go good because both sides are looking after the land, looking after the people. That is what we are trying to do in this constitution.

150 years ago, when Queensland, Western Australia, South Australia and everywhere else were building up their constitutions, they just had mob of lawyers, clever fellows, sitting in that main city up in their offices. They wrote down the constitution. They didn't go out and talk to Aboriginal people and say: 'How are going to look after your country? How is everybody going to work together on this one?' Here in the Northern Territory we want to do it a different way. We want to do it the proper way and start from the people first. That is why I am out here on this one. That is why he is out here too instead of being back in his place up in Darwin. We want to talk to all the people in the Northern Territory so that we can find a way that we can all come together.

For too many years, we have had this thing where your law is going strong one way and another one coming up bump him and people fighting and arguing. We have got to grow up. We are not like a mob of little kids anymore down in the school yard, running around pulling hair, pushing each other, carrying on like that. We have got to be men and women, strong and grown up. That means we have got to have Aboriginal people, non-Aboriginal people, Chinese people or whatever, all together - one Territory, one people, working together. To do that, we have got to have an agreed law that we are not going to change all the time - things that we agree about how land rights and people's land cannot be taken away, how sacred sites have got to be looked after, things about how culture, language and people's rights cannot be taken away from them and things about how they give power within that new place the Northern Territory that we are going give to our children, our grandchildren and our great grandchildren so that they can all work together and everybody is in there strong together.

That is what we are out here for. I am not going to come here and say that you have got to have this, this and this in that constitution because I am just one person. All you people have got to decide this one. You have to say: 'Well, we think that these are the important things. These are the really important things about law or whatever that have got to be inside that constitution'. We are just starting now. We are just opening up this idea. We have been looking at what is happening elsewhere around the rest of Australia and overseas, looking at the way they did it. We decided that this is the best way to open this up: to come out and talk to people. When we go back, we will

travel all around Northern Territory. We will be sending out tapes in language so that people can hear more ideas and keep talking about it. Then, we might have a first try at putting it all together. We might find that everybody says that it is not right or half the people say that it all right and half the people say no. Okay, we start again. This might take us 5 years or 10 years. It does not matter because we want to get it right. We want to get something on which everybody can agree.

The main thing about this one today is to remind people that, when these things come, they should look at it as something important. If you don't like it, say you don't like it when it comes up. Don't think: 'Oh well, that part is all right, but I don't like this part. But, it's nearly all right. That person said that I should say it is all right so I'll say it is all right'. Look at it, work it out for yourself and, if you don't like it, say no. Like that time last year when the referendum came up - yes, yes, yes or no, no, no. If you are not sure or you don't like it, say no. But, be part of working for it. Don't say that it is something for that Kardiya mob to look after or that it is something for that clever mob in Darwin to look after. That is not right. It is something for every person in the Northern Territory to work through. Be part of it, talk about it. Everybody discuss it and put ideas forward.

That is all I got to say for now. There might be some people who have some questions or something that they want to talk about.

Mr PANANKA: Can I say, I just want to ask. Older people, if somebody was thinking, worrying what he can pass on his worry, can they ask them in language?

Mr HATTON: Yes, please.

Mr PANANKA: Alakenhew; tryerdrty law anantherr nyentel kwet anem. Arrwekel no law change-errek. Tyenh law kwenh one place anerlanem. Anyent akwet tyerry rrpwerlekenhew. Kel atywelkerekenh law arpenh anem Change-elerlapem, keep her going, from start. Kenh Aboriginal law not been change, till today.

It's like this. We've got one law all the time. It wasn't changed before. My law is still in one place. Always one belonging to black people. Well the white people's law is different. Changing all the way along, keep her going, from the start. Aboriginal law hasn't been changed, right up to today.

Tywelkerel kwel change-elerlapem ngwenh yanh (inaudible) nthakenh anem angetyemer law apel government law that one. They changemelerl law. Kenh anyentelheletyek twekerleletyekew.

The white people always change the law. How are they going to bring the government law to us(?). They change the law. We've got to join them together and make them one.

ANOTHER SPEAKER: Arrwengkelth apel antem kelantem enter.(?)

The law is men's business.(?)

Mr PANANKA: Yes. Cause the law anem tyeperrrel anem. Law anem tyeperr empern. If law kweny anantherr apanterrem, yanheng trouble-errem. Kenh law akenh anem rrengkerr anterrkwemarl. And everybody law-eleng eteth.

Yes. Because the law is important. The law is the most important thing of all. If there is no law we are lost, and we get into trouble. You've got to hold on to the law. And everybody is alive with the law.

Them nheng tywelker law-art alhek, sometime atywelker law anem, argument atwerrenty angerr something. Atwerrenty apek start-emelemel. Kenh anwekantherr nhenh, nhenheng some time atwerrem. Law anwekantherrenh akwel mwerrelkwer anem atywelkerengentyel.

Going by the white man's law, sometimes with white man's law we have arguments and big fights. It might start a fight. This way we have fights. Our law is better than the white man's.

Kenh atywelkerekenh anem - salp an salp lyet. Kenh war arratyelemel angkerrem law nhenh anwekantherrenh artek. Anyent apek enetyek. Nthakenh anem government law nhenh tywelkerekenh law tyerty rrpwerlekenh law enetyenh. Lakenh kwenh.

Well white people's law is separate now. We can discuss straightening their law and making it like ours. Might get one law. How are they going to put the government law - the white men's law - and black people's law together? That's how it is.

Mr JUNGARAI: Speaking in an Aboriginal language.

Mr PANANKA: It is same problem I think as with the language. Like we got 2 law, one your law, one our law. Our law not going to change in many, many years. Nothing change that is why they talk language. Government law changing all the time. Government changing, law changing and our laws say which laws right like Aboriginal law and government law. Our law sometimes work this way, but the government laws is not right. Our law saying this way. If your law changing might be (indecipherable) changing. (Indecipherable) that law is wrong, should be right. We live in the Territory and here we should have good law, black and white in the one land and one government. That is our law saying and we don't have the government or any one parliament or something. We only can live together, black and white we live in Australia and in the Territory. We should come with one government. That is our law saying and our law working. If government put another law, we look our law not right. There comes trouble that way. We do not like the government changing law all the time. Maybe even come another government put government out and bad government maybe trying to start some big argument, maybe war, and we don't like that one. We like to come together with one government.

Mr EDE: The big thing about this constitution is that it is on top of the government. It is boss of the government. Other laws, like laws about drinking or laws about driving or land rights, all those ones that they put on before, those laws the government can change any time they like. They might have a fight about them if they try and change them. People might argue, but if they push really hard, the government can change them. But what about the constitution? The government can't change it. They have got to go back to ask the people and the people have got to say whether it is all right to change it or not. That is why we are trying to put this one up. The constitution is like having a dog on a chain. That dog can move inside the length of that chain, but he can't go outside. It is the same as putting a chain on the government. You say: 'You can do these things in there that we say are all right, but you can't go outside there'. The constitution is like that chain and the government can't go past it.

Mr PANANKA: Anyone apek backants-arl skujen apekew? Just ask for somebody the way(?) - tellem with the language. Jack-ey? Arrangkerr arthey?

Anyone want to ask any questions about this? Just asking for somebody to tell them in language. Jack? How about you lot?

Angkety apek kel angketyek anyway apwerapwer kweny nhewarn apetyalp nhang nhenh mpwelhepelhem. Kel apetyalpay! Nhang nhenh arem rrangkerr? Angketyeh kel apetyalpay angkety apek kel angketyek law-ek apek lakenh, ntwā apek country law anwernekantherrenh(?) awwey law (inaudible) mpwelhepelherleng. Merel aperlengkwekenh angkemalhem an menhengkwekenh, Law kwer apek (inaudible).

Don't be ashamed to come back here and talk in language; this thing (tape recorder?) is waiting for you. Well, come back! Can you mob see this thing? Come back and talk in language about the law of your country and tell them about our law(?). Talk about the law for your grandfathers and grandmothers country.

(A lot of confused and indecipherable talk).

Way! Tyerryt nhartek nhenhel arrenhantherr, tyerryt arrengkerr and angkem akngeyekenh law-ek angkepangkemel erlpangkem. Arrengekenhek and aperlekenhek, menhekenhekarl. Law kwenh angkerretyek nhenh thayt eleyek.

Hey! These people came to talk to you about your law and your fathers' law. Your grandfathers' and grandmothers's law. You've got to talk about the law and tell these people.

Arraty kwenh anwern law lakenhek wantemel alakenh angketyek engkerrek. Look! Kwey? Anakerr anaken anem anantherr ant anpernetyakenhem ay! Kwerakert anem ay! Kwey? Anentyek arrangkerr. Anpernety akenh.

That's right, we've got to talk about our law, everybody, like that. Look! We're all related to one another according to the law. We don't mix with the wrong skins.

Anmatyerr apek angkem Alice-l kel antem English elewem. Someone-l English apek elerl Anmatyerrel angkemarl.

You can talk Anmatyerr and Alice can tell them in English. Someone can speak English while you mob are talking Anmatyerr. (Stretch of inaudible talk).

Well artwang mapelertew angketyek (inaudible) law-akert again antem. Akwerark lyertelyem law-elarleng. Kwey? Engkerrek angketyek our law nthenh anemel anyenyenyeh law alakenh wantemel. Hey? Law mwerr anetyek. Atywelkerek rrpwerlek.

All the men have to talk about the law for men's business(?). Everybody's got to keep our law strong(?). The law's got to be good for whites and blacks.

Mr HATTON: This constitution can be the white man's way to make Aboriginal law stronger. We can write in our constitution that we must protect the Aboriginal law. Thus, in the white man's way, you can strengthen Aboriginal law. When you have got that, you say that is the way you want this Northern Territory to be. You write it into those laws and then you start asking whether you want to become a state. You have to do this job first.

Ms GOREY: Finish it off by talking to the people.

Mr HATTON: Yeah, that is right.

Mr PANANKA: Ngkernemel kwel law kwek arratyetyek. (inaudible) anem law, well he (inaudible). That's when the law mpwarem antem, you know. Governemnt and law, tyerrtyel apek law mpwarem, and we'd be right then. Then everything mixemup? and we not right; we just still law (inaudible). Lakenh.

They are setting up something to improve the law. government and law, Aborigines might make the law, and we'd be right then.Like that.

Mr HATTON: That is why we have to get it right. It means we have to sit down, think about it and talk about it. We have got other stuff here and, as Brian said, we will send some stuff out on tapes in language for people to listen to and get ideas to talk about. When you work out what you want to say and what you want, we will come back and you can tell us. Maybe that will be some time late this year or next year when people have had a good chance to have a think about

it. Then, they will hear what other people are saying, apart from us. You are saying this and maybe that mob up in Groote Eylandt are saying something different. You listen to what they are saying and they listen to what you saying. You talk together and maybe work out something that will work for both and think it through. The people from Darwin, Alice Springs, Pitjantjatjara people and people from all over will have their ideas.

Mr PANANKA: Make that one to put in your law. I think this (Indecipherable).

Mr EDE: Yes, they did not have any problems.

Mr PANANKA: Yes, that is why we (Indecipherable).

Mr EDE: That one, that is the federal government and a lot of people are saying the same thing. They are not happy with that boundary. It is one of those boundary things. If they put that one in, if it goes ahead, we have got to talk about those boundaries - whether you have one for Amattjura, one for Walpiri, one for Alyawarra ...

Mr PANANKA: (Indecipherable). That is their country. We don't worry. (Indecipherable).

Mr EDE: That one that we have got to work out outside, not inside this constitution. We have got to work that outside because, at the moment, it is all that town mob who decide where that money is going to go for bush mob.

Mr PANANKA: This one we were talking the other one. I think this is the law why people are saying that. Why we are talking now.

Mr EDE: This is that ATSIK one?

Mr PANANKA: No, this one we are talking.

Mr EDE: This one, the constitution. The constitution will be the strongest law for the Northern Territory.

Mr JUNGARAI: That is the one we thinking and talking on now.

Mr EDE: If you to propose ideas about councils and things like that inside this constitution, you can talk about them inside that constitution. If you think that what should be in there is a tribal council covering every part of Northern Territory, they will talk about that and, if we get everybody agreeing to that, that is the way we could put that one in. All those things could be done in there, but we want to see which ones you think are really the most important things that have to go into this one.

Mr HATTON: You can write just about any laws. The only thing you cannot do is go against the federal constitution. But, apart from that, we write our own laws as a people about all those things. Anything. It is important. If it is really important and you want it to be there forever, then you put it in your constitution. You say that the government can't touch that.

Mr PANANKA: And people somehow, all these people they can, once we talk, talk own language. You say one thing that law.

Mr EDE: They are the things that we have got to talk about as we go along. Now we are just starting. We will keep on talking about it and put ideas around. It might take us years, but that is all right.

Mr HATTON: But, you have got to do it properly. This is not one that you can muck around with and, if you get it wrong, you go back tomorrow and fix it up. You cannot do it with this one. When you do it, it is there.

Mr PANANKA: Hey! Alakenh apek angkerreperrem, eveyr tyerryt yenh nheng mpwarem strong angketyek arrernem akwetant. Not a government-el. Not a government-ek wait-erreyek, government law mparetyek. Tyerryt amerarteyel law mpwaray, ntwā amer akwet anyenetyek akewel. Government no ra akangkwerrem. Alakenhem nheng angkerreperrem. Kwey?

Hey! If all the Aboriginal people talk about this they can have a part in setting up strong laws for good. Not the government to do it. Not to wait for the government, government to make the laws. The Aboriginal owners of the country, you've got to manage the country always. The government doesn't listen. That's how we're talking. OK?

Not akwer akwek artek atnam atywelkerel leademelerl apetyert. Kel law ntwekenh ngkwengenh anyenterremel angketyek nerlanerleng. (another person: they got to arrantherr listen, (remainder inaudible))

You don't want to let the white people lead you like little kids. You've got to come together and talk about your law. (They've got to listen to us...)

They dont's listen tyerryt rrpwerlek kangkwerr. Not apalekalekerlanetyek, and law-ekartey anwern nhakelem artwant. You got amer ngkwengenh angkernerl, law ngkwengenh....(part inaudible due to someone saying 'they waiting for get answer from Aboriginal people.') Don't atywelkerel ngenh akemelheletyek nhenh anem, nthakenhelemel nhenh mapel elem. Angkerr... (obscured) -Someone sle says 'You mob got to self wake up-errerlent-. She start talking with the language, them laws,...

They don't listen to Aboriginal people. They don't listen, and we men are the owners of the law. Your've got to organise your country, ...(They waiting to get answer from Aboriginal people.) We don't want the white people getting us up. That's what you've got to tell them. (You mob have got to wak yourselves up).

Ms GOREY: They are waiting to get an answer from Aboriginal people.

Mr PANANKA: She start to talk in the language but same law tell him. We are not little boy. We are not little girl. We got law. We got our country. (Indecipherable). You got own law. (Indecipherable) and let everybody know. (Indecipherable).

(Various women; first part mostly inaudible) ...they can't change me. I. Yanheperl arrernehel holdem-elem.

They can't change our laws.(?)

Nhenhartek nhenh apetyek ngkert nheng angkety apwerel ...(Obscured by others).

(seems to be along the lines of 'The whitefellows came to talk to us, to tell us.)

Mr PANANKA: Law atywelker ernakerlanetyek atywelkerel can't nhenh awerl; you got to law tyerry rrpwerl ngkwengenh angkerrrel idea ngkwengenhel, merkartwey ngkwengenh country antwerkweperrkwen, way anpernyakeny, different different (inaudible) anpernyakenh, skin-akert, skin name-akert. And country law you gotta, you gotta think about and talk about.

White people can't understand you law. You Aboriginal people have got to talk about your ideas about your law. The traditional owners are still looking after your country. The white people don't have the sorts of relationships we have, with our different system of relationships; we've got skins; we've got skin names. You've got to think about and talk about your law for your country.

WOMAN: Alakenh anetyenh.

That's the way it's going to be.

Think about it and talk about it. I am telling it in language this way. You have got skin name, you got father's country, think about it and talk.

Mr EDE: Talk about it, get ideas. Maybe we go this way. Maybe we go that way. Everybody talk about it. Listen when those tapes come up. Hear what different people have got to say. Listen to what that Top End mob have got to say. Listen to what the town mob have got to say. Everybody got to listen to what you got to say and everybody got to listen to everybody else. Then, we find a way to come closer and closer together until we find one way that we go in that constitution.

Mr PANANKA: Sometime tyerry angkem arrangerr - I talk with the language - sometime tyerry angkem - you got your land, angkety angkem whole lot fo tyengenh amer atyengenh erntang atyenenh ap nhenh. You got amer ngkwengenh arratyel law ngkwekgenh strong-el anyenetyek amer atyengenh angerr anyenetyek. lakenh someone-l dragem-elepeletyenh akwer akwekart. Alakenhelepelem awetyek nhenhepenhem apetyek angkerretyek. Mer kwenh, arrwekel kwenh tyerrytyekenh law-el anemel everything arnang arretyakenh kwaty apek soakage angernetyakenh aweth angerr, apwerel anetyamel anakngerr arrernterrem. kel lyet akenh

anybody ken war alherl across, artak arrernemel, mer angerrety artem. Anwenth atywenp atyerreperrem. Kwey? Rwang arrtyelepelem.

Sometimes Aborigines talk - I'm talking language -sometimes Aborigines talk - you've got your land, talking language, all my country, all my hills. You've got to keep the law strong for your country, keep it strong for my country. Otherwise people will push you around like little kids. If you do that people will listen to you when they come to talk. Before with the Aboriginal law anybody couldn't just come and chop down the trees and dig soadages,(can't understand next part). But nowadays anybody can go across the land, and put up a windbreak or make a big camp. Shooting prenties. Eh? Making fires.

Lakenhem law ngkweng tyerrtyekenh antem. You can - elerl(?) tyerrty artwang angkerrerleng mer law-ekartey anpernyenh law - anyenem law anpernyakert skin-akertel akenh engkerrek, merek enytek. Or lakenh alakenh anwern wantemerrem.

That's the way your Aboriginal law is. You can tell the men who are talking about the country, the owners of the law, who are in the right relationships, to make the law for the country.(?) That's the way we want it.

Someone-I angern akwer akwekart kwel push-emeletyek engkernewern push-emeletyang kel anem, country ngkwengenh again alkwertart elemel alkwempel lywewarn alhem; clear-emelelhetyart. Atalkwarlek anenty ewarlekart. Kwey? That's all right? And you got angkerl strong, government-el awetyeh, government-el aretyeh.

You're not like kids, waiting for someone to tell you what to do; you've got to look after your own country, like when you go to the shade to make a shield; do it properly.(?) (Can't translate next bit.) Eh? Is that right? You've got to talk strong and the government will hear you and take notice of you.

Jack COOK: Yes, angkerretyeh. Lakenh akwetam apek rrwemerrwemel angketyek. Right arrpenhantem angkemetyenheng, lakenh, Pwerenheng? (Another: Arraty kwenh.)

Yes, we've got to talk together. If some are too shy to talk for themselves, other people can talk for them. (That's right.)

Mr PANANKA: People have got law and they got their ceremonies, their country's laws. He knows his law and he knows his boundaries out past his country's corner. People know already and government cannot see such one. Government think that all Aboriginal people have got one law. All got different laws, separate ones, like all blackfellows in the Northern Territory. And all the different tribes have language. We are not one; we are separate. All different tribes. Does not matter if one island, one land. Alyawarre, Warumungu, Warlpiri side, Pintupi side, Luritja side,

Pitjantjatjarra, Arrernte, Eastern Arrernte, Northern Arrernte like we. And all got different country. And all got own country each, not one. Not like Canberra and whitefellow law, got all the area. Same with Queensland, Western Australia or Northern Territory, NSW, Canberra. That is one in 4 and then 1, 2, 3, 4 (Indecipherable) might be another couple. Aboriginal got none like that one. Aboriginal got all separate ones. By his own law (Indecipherable). Even put that way it will be enough trouble.

Jack COOK: Nhenhewel nhanhay, warlpel angkerreperrem arrwekel. Like, nheng arner - tnerthert apetyalhepelhem second mob angkerretyenheng. Lakenh alpem angkety nhenhantem alpemel alpemel elem.

This lot are talking for all the white people first. They are going to come back and visit us again to talk some more. They want to keep on helping.

Mr PANAKA: Still again angkenhengkenh (inaudible).

They are still going to talk.(?)

ANOTHER PERSON: ...kel alpemel tyerry pel elepelerl, ...(another) Yanhem angkem awerrarr.

...Listen to him, he's talking.

Mr COOK: A few words. I come from Mt Allan. I just come here for this meeting. Our laws go for many years, never change. It is still standing up today but the government they changing every year. They changing for another government come in, a new government. And he take it on and change it for another law, newer laws. Don't know what can happen. Don't know what can happen under new government that get in. That is why we all ought to think about it. Might be something happening. He might bring in the trouble, something like that.

Our laws. The government long time ago peoples, as Alice Spring get bigger, they was pretty honest men. They never bring in the trouble, but they was all right. Never been changed. What I remember about the older governments in Alice Springs was there. We remember and what has been coming good all along, never been changed until all the men they work on the cattle stations, elders and all that. They never changed. They were all there. You just going on the same law but they change all right. Other person come, work for a little while or might be another boss get in. Ours never change. That is all our law and him still standing today, never been changed. But, we do not want to be changed. We know ourselves from our fathers and grandfathers never been changed. We still on the track today. He is standing up today. Never finished off.

So we like to become together, decide together and we like to bring this constitution what you people calling it, we like to bring him in together. We want to be a one lot. We do not try to push white people but we want to come together and work together, really big important way. Not some time got to be changed, rubbishing all our people. No. That no good. What are you going to do with it that way?. What are you going to bring him in that way for? You might bring in bad (Indecipherable) or something. We like to come together. We belong under one Australia. We

like to grow up all the children to come together and we all pass away and that will be good. Some of these fellers in the school they might read about them people. They been making good world, leaving something good for others to pass on. They might be smart people from doing that way, but we like to know all that sort of thing bit by bit. We do not want to miss things. What can happen behind all these young people when they grow up? They might be bringing in some trouble, but we like to believe everything good. That is all.

Mr EDE: I think what we just heard is very good. That is what we are talking about. I think everybody agrees with that and that is what we want to do through this constitution thing. We do not try to rush it. We go easy, slowly talking about things and working out how we can do that. But, we have got to start. It is no good if somebody says: 'It is a long way to walk out to Woolla Downs so we are not going to start'. You have to start going. That is what we are doing now; we are starting this one off to see if we can come together. We are travelling around this first time. Then, we will be going, talking, everybody setting things out, ideas going around, everybody talking to each other to see if we can get them right. Has anybody else got anything they want to say or should we say that that is it for now?

Mr PANANKA: Arrantherr angketyerl ay. Angkerl mwerr awemaw, angketyem arrangerr aw. (partly audible comments or questions from a couple of women.) Angkety apek angkerr Alice-l yanhekenh eletyenh Angkelethelekenh?

You lot talk and we'll understand you all right. You talk in language and Alice will tell it in English.

Ms NANGALA: Ngkerreh akwenh mwerr anetyek, rlwehenh angkem. Ya. Warn kwenh anetyeh, warn. Warn anetyeh. Warn. Nyentey akwetekeh anetyeh, mereh. Mereh. Warn alhernter yenh awerlek angkerr anetyeh land relhekenh(?). Mer anganek our little one. That's right? That's right me talking?

Everybody's got to talk good, talk about it. Yes. You've got to sit down without grog. Sit down without grog. No grog. Stay together, for our country. For the country. Without grog the white people will listen to what you say about the land. Our little ones belong to this place. Is that right? Is that right what I'm saying?

Mr PANANKA: Yew yew. Alhernter renh angketyeh thamperr eley. Kenh someone-k amperr ngkweng angkety eletyeh. Angkety nhenhel apel eley. (Inaudible) ...entepentem. (Some inaudible comments at times from women.)

Yes. Somebody's got to tell the white people. But somebody has to tell you first in language. You can tell it in language.

Mr HATTON: I think perhaps we have talked enough for today.

Mr PANANKA: Yeah.

Mr HATTON: Does anybody want to talk any further now?

Mr HATTON: Talk privately?

Ms GOREY: Speaking in Aboriginal language.

Mr PANANKA: We can talk privately and come back later.

Mr EDE: We come back another time.

Mr HATTON: Yes, we will come back again and again to talk. We have all got to think about this one.

Mr PANANKA: I just been thinking. How many laws has the government got?

Mr HATTON: Oh, lots of them.

Mr PANANKA: (Indecipherable). Like I can tell my wife. My law got 2 laws - one good law and one bad law and we do not carry the bad law. It was thrown out. We are trying to keep a good law.

Mr HATTON: Right.

Mr PANANKA: That same as the government got. 2 laws.

Mr HATTON: Yeah.

Mr PANANKA: My people (names some names) lock them up. Bad laws. Our law is good law. We don't keep bad laws. We throw them out so that we can keep good law.

Mr HATTON: That's right. And that is the way that we have to work. A man said something to me before which was a good description. He said that we look at ourselves and we have got the bones and the skeleton in there, the ribs and the arms and the legs. The bones give us our shape and make us stand up. Our arms work because of the bones in there. That is like that constitution. Then, the other laws are like the flesh and the skin on the outside. You might get fat, you might get skinny, you might be strong, you might be weak, you might be black or you might be white. It doesn't matter; you still have the same bones, the same skeleton and shape. That is like the constitution inside. It makes it strong. Do you want a constitution that looks like a kangaroo or one that looks like a rat?. You think about it.

Thank you very much for coming in and listening to us and talking to us. If you need any further information, please ring us up or write to us and we will get it for you. It is really important that we must start thinking about this one.

Mr PANANKA: (Indecipherable). Like whitefellow laws. One law is the top one, one law is the bottom one. Is government one. The Northern Territory government is in bottom. Sometimes we are worrying which government we can see if anything happen like this because we live in the Territory. We are not living in the southern states, Canberra, big city. We living are in the Northern Territory. We grow up in the Territory and something happen with the Northern Territory government. Like you, you have short memory. We should talk to you probably.

Mr EDE: As you say, the federal government is on top here and Territory government comes underneath. Now they give the Territory government some things that it can do and it tries to do those for the people.

Mr PANANKA: We see top government, little government and all little governments coming from it, like a big tree that has got little branches coming out.

Mr EDE: Yeah, sometimes that is hard.

Mr PANANKA: Sometime we be that way, too many little government. This man is on top, Prime Minister, and that minister on top of you. I don't like him anyway. He is on top of you and more little government comes out. Big tree got lot of seeds, plough come in. After that, it won't get seed and plant seed falling off. After rain, that little young tree grow. We make our law grow up like this - going one way all the time. (Indecipherable). Like African people, we got lot of problemS. That is all we can say.

Mr EDE: Yes, it is a bit mixed up sometimes. We have the federal government in Canberra looking after all of Australia. He comes down really close to people for things like cheques, federal government money coming.

Mr PANANKA: The federal government is Bob Hawke in Canberra. Land rights law ... Western Australia, Queensland. The Territory should have own law, I think.

Mr EDE: Yeah, land rights, like you said, that one only covers Northern Territory because this is a territory. It doesn't go into the other states. Some places do their own and some do nothing.

Mr PANANKA: The Northern Territory ... Western Australia. They got government there. Same in Queensland. Nobody can go to Queensland and make this law there because they got government in Queensland.

Mr EDE: That is right. But, we are more under, if you like, the federal government than Queensland because it is a state and we are a territory.

Mr PANANKA: Just like here. This mob here has 3 to 6. Sometimes people argue. Like with people on the Country Party side some argument. Sometimes people start argument and there is argument in court. Aboriginal people start argument, you on this side and I am on this side. (Indecipherable). Sometimes people not on Territory government side; they are on federal government side, the top government. Sometimes we tell them that they not living in the south in the same way we are living in the Territory. Start a big argument sometimes. We should have government, one government, that is all. Like we call one government like Territory government and

Bob Hawke is in Canberra only. That is the land rights. The Territory government should have self-government, the same as in Western Australia and Queensland.

Mr EDE: What I am saying is that we can't have that statehood. That comes after self-government, like Queensland and those mob. We have got to have constitution first.

Mr PANANKA: Oh yeah, that is what we are talking about here.

Mr EDE: Then we can talk about that other one. That government is a pretty powerful thing if it has not got any rules around it. It is like a young horse growing up. You have got to break him in, put a rope around him and get him nice and quiet before it can go properly. That is what it is like with this constitution. It is like saying: 'These are the rules you have got to work under to break them in so that, when we get going, we get going properly'.

Mr PANANKA: What about our laws, Aboriginal laws? Whitefellow laws here (Indecipherable).

Mr EDE: Well, that is what we have to talk about inside the constitution. What ones from that are we are going to put inside that constitution so that they are level?

Mr PANANKA: Some rubbish you won't like from our side, you throw them out. We can only put good law in government side. Government throw its bad law out too. Bring good laws in.

Mr HATTON: Just bring the good ones in.

Mr PANANKA: Maybe you got ... (Indecipherable). You throw them out. You don't want to keep that one.

Mr ARUNDEL: Some laws are only for Aboriginal people. You just keep them for yourself. Some laws are only for white people and we just keep them for ourselves. Some laws are the same for both. We put them together and make the one law for all.

Mr HATTON: You put in the constitution that we cannot take away the laws that are only for Aboriginal people.

Mr ARUNDEL: That is what the bones are. You keep the bones, the strong ones.

Mr PANANKA: Like we can't take your law. The government cannot come and take my laws for his way.

Mr HATTON: You can make sure they can't change that by putting it in a constitution. That stops them from that.

Mr ARUNDEL: After that, the government has got to obey our law which says that, if it makes a law and it is not right by the constitution, it is no good and we throw it out.

Mr HATTON: Or it doesn't work.

Mr ARUNDEL: Can't work.

Mr PANANKA: Oh yes.

Mr HATTON: Thank you everybody.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

ALICE SPRINGS — Thursday 13 April 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 Russell GOLDFLAM
Mr Denis COLLINS

NOTE: Edited Transcript.

Issued: 19 July 1989.

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, Aboriginals, 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 Pilau has a nuclear free constitution and Vanuatu has banned visits by nuclear ships. The Babandra 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 to 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 be 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.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

WALLACE ROCK HOLE — Thursday 13 April 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 Ken PORTER
Mr Chris MARSHALL

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

ISSUED: 21 July 1989.

Mr HATTON: My name is Steve Hatton. I am the chairman of this committee from the Legislative Assembly which has the job of working with the Northern Territory people to make a Northern Territory constitution. At the back of these books, you will see the pictures of the 6 members of the committee. There are 3 from the CLP, the government side, and 3 from the ALP, the opposition side. Brian Ede, the member for Stuart, is the deputy chairman. Col Firmin, the member for Ludmilla, also is on the committee. The other 3 members are not with us today. Because we are going to all the different parts of the Northern Territory, we are doing it in shifts.

We are here today to talk about a constitution, to explain to people what it means and how we are going about it. Over the last couple of years, you have probably heard a lot of talk about the Northern Territory becoming a state. But, we are not here today to ask you whether you think the Territory should be a state or whether you think it should not be a state. That is not the question. We would ask you to understand that, one day, whether it is next year, in 5 years time or in 20 years time, the Northern Territory will become a state. Before we can even think about that, we need to know what sort of a place we want the Northern Territory to be. Like everywhere else in the world, like everywhere else in Australia, the people have got to set the rules.

Governments make laws all the time and they change laws. You elect a government and it changes the laws from time to time. If you do not have something which says what the government and politicians can do and cannot do, if you do not have some way of controlling them, they can really do what they like. To make sure that they do not do whatever they like, that they do only what the people want them to do, you make a special law. It is a law that comes from the people and it is the boss over the government and the boss over the courts. It is a law of the people that says what the government can do and what it cannot do. It is a law that contains the things that are really important to people such as their rights - the things that they want to really protect, that they do not want governments to muck around with. They put them in here so the government cannot touch them.

This sort of law can only be made by the people voting for it and the only way it can ever be changed is if the people vote to say that it can be changed. Governments cannot touch it. It is the boss over the top of the government and it cannot touch it. It is the people saying to the government: 'Yes, we will let you do that. But, we won't let you touch that. That is too important. Leave it alone'. Do you remember that, last year, you were asked to vote in a referendum for the constitution? At that time, the government wanted to do some things and it had to ask the people. The people said no and therefore the government could not touch it. That is the Constitution and only the people can touch it. It becomes very strong.

That is the way that you protect your rights. You sit down and you think about that and you say: 'I live in the Northern Territory. My children live in the Northern Territory and my grandchildren will live in the Northern Territory. What sort of a place do I want this to be for them? How do I want it to work? What sort of rights are we going to protect for me and for my children and my grandchildren? What are the important things? How do I want the government to work? How do I want the courts to work?' You put those sorts of things in there to indicate that is what you want this Territory to be like. When you write that, then you know what you will want one day when you become a state. However, until you know that, you cannot even think about

statehood because you do not know what you want, you do not know how it is going to work and you do not know how you will protect the things that are important.

You have to do all that first, and it will not happen quickly. It is not something the politicians or the lawyers can do. We can't simply sit up there and write out a constitution and say: 'Here it is. It's all yours'. It has to come from you. It has to be your constitution, your law, something you want and what you say the Northern Territory should be like. We have come out now and we are going around all around the Territory explaining this to people and telling them that they should be thinking about what should be in there. Should there be a protection of the right to vote, so that you have the right to vote for governments and no one can take that away from you? Do you want to put in there things such as protection for your land rights so that people can't take those away from you? Do you want to insert protection for sacred sites or culture or language or things that you want to go on and on in the future? I am talking about the really important things, not the detailed laws - the really important things that must not change. That is what we have to put in here and we are asking you to think about those sort of things because, one day, when this law is going to come up, it will be there and it will stay there. It will be there for our children, our grandchildren and their children. It is our job to make a law that is going to be good, that is going to make the Northern Territory a good place for our children and our grandchildren and not just leave the job for someone else to do, not just sit here like children having somebody else make all the decisions for us. We are going to work towards growing up to become like adults where we make decisions for our own life and the way we want to live.

This is the first stage of doing that. If you don't do this, you will always be like a child with the parent there telling you how to run your life. It is good to grow up and become an adult. Sometimes it hurts, but it is good. When you do, you make decisions for yourself within the laws. You make your own decisions and the people make those laws. It is the same thing for a state and the same thing for the Territory. It has got to be. Every government has one of these rules to control it. Queensland, Western Australia, South Australia, New South Wales, Victoria, Tasmania have all got a constitution that says what they can do and what they can't do. The federal government has one that you voted on last year.

Only the Northern Territory does not have one and that is why the Canberra government can do whatever it likes with us - because we do not have our own law that came from the people. Now you know that is not an easy job, is it? What are you going to put in this thing? How are we going to go about thinking about this? How are we going to work out how to put things in here that are important for Aboriginal people - people from the desert, people from the Top End, people from the Gulf - and also for the white people in Alice Springs and Darwin, the pastoralists, the miners, the Chinese people living in the Northern Territory? We are going to start thinking about everyone and how we want everyone to live together with respect for their culture in the future. That is what we are going to work on.

We have been doing a fair bit of work. This book here gives you a few ideas. It starts you thinking about what a constitution is, what a government is, what the courts are and how they work. We did a lot more work than that. We will leave this big book with you. It took us 3 years to write that. We looked all over the world - America, the West Indies, Canada, Africa, New Zealand and New Guinea - for different ideas. We looked in Australia and we looked at our own

self-government act for different ideas. We liked some of the things that we saw but there were other things that we did not like. But, whether we liked them or not, we put them in there so that you can think about whether or not you should put them in your constitution. That will help you think about some of these things.

We are going around talking about it and we will come back if you want us to come back and talk about bits and pieces of it. We want you as a community to talk among yourselves about it, think about it and talk to the other communities. If you are not sure about something, ring us up and get information and start thinking about it. When we come back maybe later this year or early next year, you can tell us what you think should go into there and we can tell you also what other people are saying.

We must start talking among ourselves all over the Territory and gradually build up some ideas about what people want. When we get all that in, it will be our job to sit down and try to write out what we think the people are saying. We will write out what we call a first draft which will be our ideas of what we think the people are saying. We hope that we get it right but, to make sure, because this is too important for us alone, we will want to form another group which is called a constitutional convention. It is like a big committee of people which will have representatives from different people from all over the Territory. Their job will be to look at what we have done and think about it and say whether they think it is good or bad or whether it should be changed again to get more of what the people are saying. They will go through that and determine what they reckon is the right way. When they have done that job, it will go back for the people to vote yes or no - the same as you did last year. If the people say that that is what they want, then the people's law will be in place. If they say no, we have to go back and start again and keep working until we get it right.

It is not going to be quick. It is not going to be like when Gerry Hand came out to talk about ATSIIC. We do not have any ideas yet. We are asking you for the ideas. We are going to sit here and talk and think about how to build this law so that, when it is finished, we can all say that it is our law, that it is the people's law. That is the law that will tell the government how to work. That is the law that will tell the government what it cannot do. That will be the law that will protect our rights so that the government cannot muck around with them. That is the most important thing you can do for yourselves, for your children and for your grandchildren. That is how you build this good future. But, it will be good only if everybody works on it and everybody has their say and can say: 'That is mine. I own that, not the government. That is mine'. That is what a constitution is.

I reckon that, if we can do it really quickly, it might take 3 to 5 years. I do not reckon that it will be much quicker than that. There is plenty of time to think it through but, with every long journey, you have to start somewhere. We are saying that today is the day to start that journey because, the sooner we start, the more time we will have to get there and get there properly without having to try to rush things. I do not want you to tell me today what you think should go in there. I want you to say to yourself: 'I want to be part of this. I want to make sure that, when they are doing this, they get it right from my point of view'. You can do that by getting involved, by thinking about it, by talking about it, by talking to us about it and telling us what you think. If you are not sure, ask us about it so that we can try to bring this Territory together and make it a place where everybody can look forward and say: 'This is a great place. We got it right because the Territory

people determined the way they wanted it to be, not the way somebody else told them how to do it'. That is what you do with this constitution.

I am not going to talk any more now, but I am going to ask Brian Ede to say a few words. We are here to talk to you about it and to explain things. If you have any questions, feel free to ask them as we go along. Tell us about it so that you can feel comfortable about becoming involved in this. It is a big job. It is a job we have got. If we do it well, our grandchildren will be proud of us. If we back off and do not do it, we will be letting them down and they will ask why we did not do this job for them. We have got to do it.

Mr EDE: Last night, I was talking to a bloke who came round home. He is a good Labor man, and he said to me: 'Look, what are you doing on this committee? You are the Deputy Leader of the Labor Party. What are you doing on that committee with all those CLP mob? When it comes down to it, at the end of it, there are 15 of them in the parliament and there are only 6 of you. They will have the numbers and they will do what they like'. I said: 'Well, if I believed that I would not be on it'. Maybe I am a bit of a fool, maybe I am wrong, but I do not think it will be that way. The fact that we are working on this one does not mean that we suddenly agree with everything. I still disagree with these blokes about a whole heap of things, about Aboriginal affairs, about how we can build a cattle industry, how we develop the education and health and all those sort of things, but there has to be somewhere where we all say that we are Territorians first and we are going to work together to try to get something that we can start from.

If this was going to be a thing whereby the biggest mob could do what they want and anybody else would be pushed aside, I will tell what, there would not be much hope for Aboriginal people in the Northern Territory because, as we all know, there are a lot more whitefellers in those towns than there are Aboriginal people out bush. But, I think that this is a chance. It might be our last chance, but it is our best chance of trying to determine what the things are the things that make us Territorians and what are the things that we really believe in. It is the best chance that we have for Aboriginal people to explain to those whitefellers the things about Aboriginal culture, land rights and sacred sites that are really important, that are the things that have come down from thousands and thousands of years and that have to be taken forward into the future. What are the things in that that need to be put into something whereby we can say, 'We respect that culture. That culture respects ours and we can work together'?

Somewhere we have to start that working together because we are all going to be here for the rest of our lives. Our kids are going to be here, our grandkids are going to be here. We have got to find some things we agree on. I believe that this is where we should be doing it because there is no way in the world that we will be able to go into the next century and be able to feel that we are proud of the Territory unless we get something down that indicates the common things that we believe in and the things that we want to hold on to. I am not going to stand here now and say that I want this and I want that because that would only be me saying it. What I want to say is: 'Let's open it up now. Let's start talking to each other. Let's start thinking about the things that can be in the constitution and let's start working with different groups around the Territory to see if we can find those things'. When we think we have found them, as Steve Hatton said, we can put them to that committee of people from all around the Territory and let them take it over and see if they reckon we have got it right. They can change it or do whatever they like with it. But, finally, it has to come

back to a vote of all the people. They will call a referendum. Whether half the people or two-thirds of the people have to agree for it to go ahead is one of the questions that people will have to discuss over the next year or two. Those are the things that will determine how hard it will be to change these things after we have them in there.

Those are all decisions that we all have to talk about. You will find that some people will be right over this side and some people will be right over that side and there will be times when we are going to ask how we are all going to agree on this, because everybody is all over the place. But, if we keep talking and if we keep explaining to each other what we are on about, and what we are trying to achieve, I believe that we can do it. Everywhere I go around my electorate, and I am sure it is the same down here in Neil Bell's electorate, people say to me: 'Look, we are not out to screw that other mob. We are not out to wipe them out. We just want to have a fair and equal chance. We do not want one lot up here and one down here. We do not want to go turning it around like that. We just want to be equal. We want to have a good chance for us to have a reasonable standard for our kids, a decent education for them and a decent chance for them to get jobs and to be able to have a decent life here in the Territory'. Everybody is after the same thing. And if we are all after that same things in the end, surely there must be a way that we can agree on how we can come together to try and achieve those things.

The only other thing that I want to say is that, if you do not reckon we have got it right, when you first start hearing things coming back, do not be shy about saying: 'You are wrong. Cut it out. Start again'. This referendum might be in 2 or 3 or 5 years. It does not matter; we have plenty of time. People have been wandering around this country for 20 000 or 30 000 years. We are going to be around for a few thousand years more. We have time to get it right. After all the committees and the convention have had their talks and it comes back, if you feel that most of it is okay but there are a couple of bits you do not like, you would be better off saying no. If you said no, we would have to start again and work it through until we got it right. It is too important to have only a little bit right. It has to be properly done.

Thus, the only other thing that I want to say to you is that it is important to be involved. We will be trying to send out tapes about different ideas that are being raised in different places. We want people to listen to them, to talk about them among themselves and with other people to try to come up with ideas on how we can do it. We will be coming back later on ourselves, but we will be travelling all around. In the meantime, do not forget that there are addresses there. You can send in a tape of talking in language or write to us. It does not matter. We will get the message. We will get interpreters or whatever we need to find out what people are saying because we really want this to be something of which everybody is a part, that comes from the people, not something that Labor Party or CLP or National Party say that the people should have. It has to be the people's law and the people have to take control.

Mr HATTON: Thank you, Brian. Are there any questions?

Mr PORTER: Just to give the people a bit more of an idea - I think maybe I might be right - if they do not like the way the titles of land and all that sort of stuff are now under the land rights act and everything, that would be the sort of thing they could be talking about too, wouldn't it? To make sure that it is written in this thing that it can be changed if they do not like it the way it is or whatever?

Mr HATTON: Yes, that is right. You can talk about anything. Land rights is a thing that most Aboriginal people we have been talking to want to make sure about. They do not trust the Northern Territory government. Let's be honest about it. They say that, if one day we become a state, and this land rights act becomes a Northern Territory act, firstly they do not want to give the government the right to be able to take it away. Thus, you might have to put some words in the constitution to the effect that you have the right to retain your land rights. However, the details of it, how it works, what sort of title, who has the right to say what you can do or cannot do on that land are things that you put in the act itself. That is when the people can talk to their government about what they want. I think that, after we get past this constitution stage and people say that they want to become a state, the next question will be how to work this land rights. And that is when they are going to ask us. They will say: 'We own our land and no one can take it off us, but how is it going to work?' We would then sit down and start talking about that and have it written down in the move to statehood how the land rights act would operate.

We can send you copies of a book dealing with those matters. That comes from the government, not from our committee. It says that there are different ways of doing it. We are not going to say that the Land Rights Act has to go this way or that way. We want to talk to the Aboriginal people in the Northern Territory and ask them whether they think the Land Rights Act is perfect. Is it working the perfect way for you now or is there a way of making it better for you? We should talk about that. It has been 10 or 12 years since land rights have been going. Did they get it right first time or are there better ways of doing it? You are living with it and you should be telling us that sort of thing. You can still protect land rights and work out how you want to do it in that other stage. It can be done.

Mr EDE: Just one thing about that. The Queensland constitution, for example, is one page. It says there is to be a state called Queensland and, to change that, such and such has to be done. However, the Papua New Guinea constitution, for example, is about that thick and it goes into a great deal of detail. It talks about organic laws and all sorts of things. How much detail goes into the Northern Territory constitution is something that the people will have to decide. You could have a straight principle of land rights, that everybody retains control of their own land. You could either not mention it at all or you could go into a great deal of detail. Those are the sorts of things that we have to negotiate. We have to find the things that enough people agree with.

Mr PORTER: People like the community government councils have to make sure that they are recognised in this constitution.

Mr FIRMIN: That is right.

Mr PORTER: The same as associations. If an association wants to be recognised, that is the sort of stuff that has to be there.

Mr HATTON: You could constitutionally entrench different forms of local government so that you would have an absolute right to it and the Northern Territory government could not take away your ability to do that. You are making the rules this time, not the government.

Mr PORTER: So if community government was overlooked - it would not be, but just say it was - it could be quashed altogether and we would lose our rights as a community government?

Mr HATTON: If you haven't got it protected by a constitution. It is not likely however.

Mr EDE: By legislation, you could still have community government even if it was not in the constitution. As I was saying the other day, it is a bit like having cheeky dog that goes around biting people. You might put him on a length of rope and, depending on how he is, you might decide the length of that rope. This is a bit like putting the government on a length of rope. You are saying how far you can trust it. If you do not trust it much at all, you write it all into the constitution. If you have a bit of trust for it, you can give it a bit longer rope. It is a balance between the two.

Mr PORTER: I reckon you can give people out here a better idea of the constitution thing if you refer back to when Hugh Richardson came out here to set up our own. Ours is just for Wallace Rock Hole. You are are talking about one for everybody throughout the Northern Territory. It is the same sort of thing. We had 18 months or nearly 2 years of a drawn out process and it is the same thing that you are going through now.

Mr HATTON: Exactly the same sort of thing.

Mr FIRMIN: It is a bit bigger job. That is all.

Mr PORTER: Yeah, that is what I am saying. It is on a bigger scale.

Mr HATTON: Yeah, you had to set the rules and the elections and all that sort of stuff.

Mr PORTER: And all that sort of thing will be set in this constitution.

Mr HATTON: Exactly. As you can see with the community government, you had to get all the rules worked out before you even said that you would go ahead. It is the same thing with statehood. We have got to get all the rules worked out first.

Mr MARSHALL: Is it fair to ask just what are the main questions that people are raising around the Territory to give everyone here an idea of what the issues are that are being raised?

Mr HATTON: There have been no issues raised that are not in those books. There are 11 pages of questions for people in there. Should you have a unicameral or a bicameral system? Should you have an upper and lower house or just the one Assembly like we have now? Should you have fixed term parliaments? How long should the term of a parliament be? Should you put into the constitution the right to vote and who is eligible to vote?

Mr MARSHALL: You recognise, of course, that many of those questions are not of great relevance to people.

Mr HATTON: Sure. We do not expect that there would be much dispute over that. At least, if there is, it will come out. We are putting those things in front people. There are more complicated ones. Should there be a bill of rights or not? If there should be, what sort of bill of rights? Should there be some recognition of the unique position of Aboriginal people in the Northern Territory through some sort of preamble or other mechanism in the constitution? If so, how can that be done without walking into the sort of preamble problems that Gerry Hand walked into? What do you do about land rights and protection of different cultures and languages and so on? Should there

be guaranteed Aboriginal representation in the parliament like they do in New Zealand with the Maoris?

One fellow reckons that special environmental provisions should be written into the constitution that require the government to act within certain environmental guidelines. I think that, tonight in Alice Springs, the Alice Springs Peace group will be telling us that we should put in the constitution that the Northern Territory will be a nuclear free zone. I mean there are going to be really significant things and really extreme views. Only if everyone is involved can we sort out the wheat from the chaff. People are going to hear some things and say: 'I don't want to know about that'. However, we can't say that people cannot talk about it. Does that give you some ideas?

Mr MARSHALL: Yeah.

Mr HATTON: There is plenty more in there, I can tell you. You have just got to take them one at a time and talk them through.

Mr MARSHALL: I have been through these questions that are listed in your book.

Mr HATTON: If you look in that book, you will find a lot more.

Mr MARSHALL: Yeah.

Mr HATTON: They were just the major ones in that book.

Mr MARSHALL: I think the things you just mentioned seem to be the main issues that arise in my view in relation to the bush out here.

Mr EDE: Most people around the bush have been talking about the fact that the whitefellow law keeps changing all the time as against Aboriginal law that remains the same. People keep being told that some law which impacts on traditional law looks as though it is going to change. People become really worried about it and talk about how they want to have something tied down so they will not get into those types of arguments. That goes through that whole gamut of that area. After that, people say: 'Thanks very much, but we want time to think about it'.

Mr HATTON: One community said that it should be put in the constitution that a person must be dealt with in terms of Aboriginal law first and then can be looked after by white man's law. He doesn't get a choice.

Mr FIRMIN: That view may not be universal of course, but they made it very strongly.

Mr HATTON: Yeah, you are going to have all those sorts of things coming forward. It will make the Northern Territory come to terms with itself.

Perhaps I can ask if you can pick up some of these things and start talking about them yourselves until you can see that this job has to be done. It has to be done and finished one day and we really ought to start talking. The sooner we start talking, the more time we will have to do it properly. What we do not want is somebody coming to us later and saying: 'Here, this is what you have got' This is the big chance for the Northern Territory people to determine the rules for how the

Territory is going to be. Let's make the rules ourselves and then we can only blame ourselves if it goes wrong. Then again, we have the right to change it if we get it wrong. That is like being an adult, as opposed to being a kid with somebody holding our hand all the time. That is what this move is all about. It is moving towards growing up.

Thank you very much for having us along. If you want us to talk informally, we can do that. However, I close the formal part of this meeting and thank you very much for coming along and listening to me.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

AMOONGUNA — Friday 14 April 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 Vince FORRESTER

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

ISSUED: 20 July 1989.

Mr HATTON: Thank you for coming along this morning. I know everybody is very busy. It is a Friday and a work day and it is very difficult. You get sick and tired of people coming out to the community all the time, wanting to speak on this subject or that subject, but we would like to take advantage of what opportunity we have to talk to you about the work of our committee, and we hope to convince you to start thinking about this matter of getting our constitution for the Northern Territory.

Our committee is a committee of the Northern Territory Legislative Assembly. It has 6 members on it and, at the back of this book, you will see the pictures of the 6 members. There are 3 from the Labor Party and 3 from the CLP. It is equal numbers. This is the only committee ever made up in the Legislative Assembly that has the same number of members from the government and opposition. That is because, on this particular job, we are in fact working together. You know in politics most of the time it seems the CLP and the Labor Party are fighting about this or that or something else and always arguing and saying the other bloke is wrong or we are right.

This time this job goes beyond that. It is bigger than that. It is as if sometimes you have to say: 'Hey, let's stop playing politics and let's start thinking about being Territorians. Let's start working for something that is more important than just playing politics'. We, as the parties on the 2 sides of the parliament, think this job is so important that we will work together on it and work with the community to write this constitution, or to help the community to write this constitution.

To explain who we have here today, my name is Steve Hatton. I am the chairman of this committee. Brian Ede you know. Brian is the deputy chairman, and Colin Firmin, who is the member for Ludmilla, is also one of the members of the committee. We have been travelling around the Centre here for the last 2 weeks. Before that, we had a week up at the VRD. Next week we go up to Tennant Creek, the Barkly, and Gulf country and then back up to Darwin. Later we will go to Arnhem Land and across the Daly. We will be covering the whole of the Territory, all the major towns, 59 communities throughout the Territory, saying the same thing to them as we are saying to you and that is, have a look at this and start thinking about it. I know everyone says: 'Oh crikey, what's this? A constitution, what is that all about?' Well, I would like to talk to you about that if I can.

The constitution is a law made by the people, and it is not like your normal laws. This is a law that people make to control the governments and the courts and to say how you protect your rights as a community, how you want your Territory to live and work. The law, when it is made, becomes the boss over the government and the courts. It is something the government has to work under and something the government cannot muck around with. They cannot change it. This can only be changed by the people. It is made by the people and it can only be changed by the people, so it becomes a very strong law. It is the way the people say they want the place to be run. They are going to tell the politicians what they can do and what they cannot do. The people make these rules and they say that this is how they want our Territory to work.

Every government in Australia has a constitution controlling it. In Queensland, Western Australia, South Australia, New South Wales, Victoria, Tasmania and even over the federal government there is a constitution that says they can do this and they cannot do that. The only place that does not have that is the Northern Territory. Our people have never been asked to make the rules on how they want their place to work. This time, we are saying let's start doing that.

You have heard a lot of talk about statehood. This time, we are not asking you whether you think statehood is a good idea or a bad idea. We are not asking you if you want to support statehood or whether you are opposed to it. That is a separate question. Before you could even think about statehood, you want to know what you will have, and how do you know what you will have if you have not written the rules? It is a big enough job just to write the rules to set your constitution in place and get that right. Then maybe, after that, you can start asking whether we should we be a state or not.

But I do ask you to remember one thing. Whether it happens next year, in 5 years, 10 years or 20 years, one day the Northern Territory will become a state.

A person: When?

Mr HATTON: I do not know when, but one day it will, but that constitution is the first thing that you have to do and then you will know what you are talking about.

How we are going about doing this is, first of all, we are going around now telling the people this job has to start. We need to start on this job. It will be a long, long hard job. It has to involve everybody in the Territory. It has to involve Aboriginal people, white people, the migrant communities that come into the Territory, the Chinese people, the Top Enders, people in the Centre, the bush people and the town people. It has to involve the lot.

For the first time, we have all got to sit down and start saying, 'How do we want this place to work?' Let's talk to each other about that. Let's make some rules on how we are going to live together. Let's come to terms with the reality of the Northern Territory and work out how we can start to make some rules where we can live together with mutual respect. As a people you can do that, if you write this constitution properly. When you do that and put it there, that will be your gift, your legacy to your children and to your grandchildren and their children. If we do it well, they will look back on us and they will say, 'Our people did a good job for us. They left us something that is good and strong'. If we walk away from this job, our grandchildren will ask say we did not have the courage to stand up and do this job when it had to be done. They will ask: 'Why did they leave us in a mess?' We cannot avoid it. We have to make these rules - not for us now but for our children and our grandchildren, to give them a a Territory that they will want to live in and will be happy to live in. We can do that by us working together all over the Territory to write this constitution.

As I say, we are talking about this today. We are not asking you even to tell us now what you think should be in there. If you want to tell us, if you can, we are happy to hear it, but we are not asking you that question now. We think it is important that you think about it, and talk about it amongst your community and with your friends. Work out your ideas. Have a look at some of the books we have got. Look at the different things about it. Think about it and talk about it. If you are not sure about something, ring us up and say you want us to come back and talk to you about this subject or that subject. Start to learn more about it. When you get your ideas together, we will come back and then you can tell us what you think should go in this constitution.

We are going to do that same thing all over the Northern Territory, from Gove right down to Docker River and all over. When we get everybody's ideas back, our job will be to sit down and start to try and write out some basic ideas about what we think the people are saying. We call it the

first draft. We will have all the views that have come forward to us, the work that we have done, all the submissions that people have given us, and we will put those together and we will prepare a draft constitution.

But you cannot trust just us to do the job. You do not want a bunch of politicians or lawyers writing this thing. It has to be written by the people. So, the second thing that we are going to ask you is to help us work out how we can put together what is called a constitutional convention. That is like a big committee of people from all over the Northern Territory, representative people from all over the Territory, who will come together, and keep coming together, to look at the work we have done. They will look at all of the things that people have been saying and look at all the stuff, check it out and see whether they are happy that that is what should go forward to become a constitution.

They might change what we do. They might wipe it out and start again, or they might say it was a good job. That constitutional convention, that committee, will prepare that document and then, when they have finished it, that document then goes forward to the people to vote 'yes' or vote 'no' on in a referendum. If the people vote 'no', we will go back and start again. We will start talking again, and we will keep doing it and doing it until we get it right. We have got to get this one right, because this will set the rules and set the way we want the Northern Territory to go in the future.

It is so important because it must be the property of the people. It must be something that people say: 'That is mine. That is where my rights are protected. That is where I set the rules and I tell the government what they can do and what they cannot do'. People are going to feel they own that, and that only the people can muck around with that and the governments cannot touch it.

You must start to think about it and, because it has to happen, you have to start thinking about it now and you have to make sure you have your say about what goes into this book. You have your say. It is not a frightening task. It is your law that is going to come forward. It is a law that is going to be there into the future, basically unchanged in the future. It is the way we, as the Northern Territory, are going to grow up and take control of our own lives. Just as a young people grow up to be adults and take control of their lives, so the Northern Territory will when our people work out amongst themselves how they think this place should run and they make the rules for themselves.

That is our job. We ask you please, get involved in it. It is for your good. It is important that you have your say in this job so that, when it comes out in the end, you are happy with it.

I will ask Brian if he would like to say a few words.

Mr EDE: A couple of nights ago, very strong Labor man was at my place and he said to me: 'Well, what the hell are you doing out there in a meeting of this sort, going along with Steve Hatton? You are the Deputy Leader of the Labor Party and he is that ex-Chief Minister CLP bloke, and you know full well that when you get back into parliament, there are 16 of them or something and about 6 of you, so they have got the number on you. What is the point of being involved in it. Why don't you get out and just let them do their thing and then throw rocks at it?'

Well, I suppose it would save me a lot of time if I did it that way. I would not be travelling all around the bush and working on the things that we have been doing. But, basically, the reason why I am working together at the start is that the only way this constitution can get off the ground, the only way it can be a success is if, at the other end, we are together. We have to find a position where, at the end of the day, there is very substantial agreement amongst all Territorians about what is in this constitution. If we do not achieve that, it will be a failure and it will not work. It will not get off the ground. The only way that we can get to a situation in the end where we are agreement with each other is if we start off together.

When we look around, there are lots of things that, as Territorians, we all agree on. We all want a place here in the Territory where we have security for ourselves, for our children, for our families. We all want to have a reasonable chance at our kids getting a decent education and having decent health and being able to grow up strong and fit and with a chance for a decent job. They are things that we all share. If we share those things, which are fundamental issues, we can start working from a basis of things that we agree on.

As we go on, it is not going to be easy. There will be times when we are arguing and it will seem as though we will never get back together again, because we will be arguing some very fundamental issues as we go along. But, in the process of that arguing as we go along, we will get to develop an understanding of each other and each other's point of view. People from the towns will start to understand why things like land rights, sacred sites, culture and language are so incredibly important for Aboriginal people and why they want things like that entrenched in the constitution to ensure that those laws do not keep changing. Aboriginal people will start to understand why it is that there are things in white culture which seem to be absolutely unexplainable but that, in fact, are important for white fellows. So we will have communities starting to grow together, starting to understand each other. That is the process that we have got to go through in the constitution.

When we have got that constitution together, if we get a very substantial majority at the end of it, we will then be in a position where we can go to the rest of Australia and we can say: 'We have worked this out in our own backyard. You have seen the results of the referendum. You have seen the very substantial agreement that we have got on these points. Now we want you to agree to it'. And then we can start talking about a date for statehood. Until then, we cannot talk about a date for statehood, because statehood is just a word. You cannot eat it, you cannot see it, you cannot feel it - it is just a name. It is not until you have got a constitution written down that you can read that you can say that that is what we are talking about. That that is the Territory and this is what it means. It means respect for each other. It means these principles that we hold to with regard to respect, with regard to sacred sites, with regard to land and with regard to recognition of the people of where they came from and where they want to go - the type of society mapped up out of that constitution.

When we have got that, then we can ask ourselves if that is something that we want to back or if it is not. Until that day, we cannot talk about statehood. It is so fundamentally important because it is not just for the next 10, 20, 50 years, it is important for generations and generations to come. That is why I am here working on this committee and why I am going to stick with it and try my damndest to see if we can find agreement on the issues and work through them so that we get to that other end.

There is one thing that I say all the time. If, when it comes back to the people, you say: 'Look 20 pages of it are great but I do not like the 21st page', say 'no' to the lot. Let's fix up that 21st page. Let us make sure that everything is okay, that we get it okay, because Aboriginal people have been around here for thousands of years. There will be people in the Territory for thousands of years to come. We have the time to get it right. Don't let's have a half-baked job. That is what they did in the other states. Over 100 years ago, a couple of lawyers and a couple of politicians got together in a room in Brisbane or Sydney or Melbourne and said 'Okay, let's draw ourselves up a constitution and we will go over and talk to the Queen about it and see if she will say it is all right'. They did not go out and talk to the people. They did not go and talk to Aboriginal people about the things that were important to them.

That is why we want to do it differently in the Northern Territory. We want to do it properly so that it really is the people's law; it really is the law that stands over government, over administrators, over the courts, over everybody and says this is how you will operate, this is how you will deal with each other in the Northern Territory. If we get it right, it will be something to be extremely proud of and the fight for it is well worth doing. So, I plead with you: don't walk away from it when times get hard and it looks as though we cannot see that light at the end of the tunnel. Keep in there and keep going, and keep going until we do find that place where we have that agreement and that unity in the Northern Territory which will allow us to be a greater and better society.

I do not want to say any more about it now. There are fundamental issues that we will have to address, things like entrenchment. What proportion of the people will have to agree before we say that we have got substantial agreement? Are we talking half? Are we talking two-thirds or are we talking about three-quarters? To what degree do we entrench things like land rights and sacred sites? What are the important principles that we have to get fully entrenched and what ones can we allow to be entrenched to a lesser degree? Those are issues that we will have to tackle in the coming months and years.

It will not be me that lays them down and puts out a position. I want to hear what people have got to say in the coming months and years. It is your law. We are only sitting here to kick it on. We are opening it up. It has opened up now. This is it, this is the first step. If you are going for a walk into town, you cannot just stand there and say, 'Oh, it is too far'. If you have got to go you have got to go. You have to go, so you start. Well, this is what we are doing. We are starting and, hopefully, we will get to the other end, some day.

Mr HATTON: Thanks Brian.

You have heard most of the sort of stuff we are talking about. As Brian said, some of the important things we know from Aboriginal people are there. That book you have there is like a beginner's book, if you like. It has a fair bit in it anyway. That is to give you some idea of the sort of things that might go into a constitution and some of the questions to think about. If you look at that and think you would like to know a bit more about what this mob talking about, we have another book which we put together. That one took about 3 years to write. We looked all over the world. We looked in America and the West Indies, Canada, New Zealand, New Guinea and Africa and all around Australia at all the different constitutions and the sort of things put in them.

There are things in there we do not agree with and things we do agree with. There will be things in there that you do not agree with and things that you do agree with, and we have put them all in there so you can think about them. We are not trying to hide anything from people. We will give you everything to look at and think about. We have come up with some ideas on what you can do, and different ideas, but you have to look at that and decide that you like this or you do not like that or, if you think this mob forgot something else, tell us about that, because that way we will get in the final law what you think.

These books are to help you think about different subjects and, if we have forgotten something, you make sure you tell us about it. It is only if you tell us about it that we can look and see whether other people think the same way. And remember, other communities will be doing the same thing. We will be getting stuff from them, and what they tell us we will tell you, so it will go backwards and forwards all over the place. We will have grey hair by the time this is finished, I can tell you, but the people will understand this. That is what we have to do. It is our job, but you tell us what you are thinking.

Most importantly, tell us who you think should be on the constitutional convention. How should we put that together. How do you choose Aboriginal people to go on there? Which Aboriginal people should go on there? Should there be pastoralists? Should there be business people from town? Should the miners be there? Should there be women's representation as well as men? Top End, Centre, all over, local government, community government, all sorts of different ways - think about that. There are some ideas in that book about that to think about too to help you get your own ideas. Have a talk amongst your community about how you think it should be done and then come and tell us about it. That is the only way we will get this together, because that committee has to be right too. If we get that mix wrong, it will not be really representative of the people, so it will be harder to get a good job done by them for the constitution.

That is what we have there. It is the information that we have got. It is really up to you. I am not going to say any more now except, please, if you have any questions, ask them. I know a couple of people there have got questions. Ask any questions you like about how we are going about this.

Mr FORRESTER: I would like to say something on this.

First off, this little book here, you mob, that has got kangaroo and that has got eagle and that has got paintings from some Top End mob. I do not know what that painting means, but I can understand my grandfather's kangaroo here which we own sovereignty about - and that is what these fellows are talking about, sovereignty. They are coming along to us black fellows and they talking about something that white fellows call sovereignty of the state, so they can make laws and all that sort of thing. Like before the white man came, this was our grandmothers' and grandfathers' country. That is what they are talking about.

Now they want to give the Northern Territory government powers over sovereignty. They can tell you they give you piece of land, like they give us piece of land out there. Before, we knew this was all our country, and this is what they are doing when they are talking with this book here. They have to answer our claim to sovereignty. We owned this land before the white man ever came here, and this is what they are talking about.

On 1 January 1901, they passed that constitution. They gave Australia a white fellow government down in Canberra. They gave them their sovereignty. This mob of people are talking about a different form of sovereignty now, at a statehood level, but they still have to answer the question: who owns the stories for that emu, 2 kangaroos and eagle hawk? That is the basic thing that they have got to listen to when they talk about that, because otherwise we have to protect our rights as indigenous peoples.

All over the world they have different laws, but they also have different laws in a place called United Nations. They have every sort of law to protect human rights and that there and, in those international laws, they say people have the right to self determination. Everybody knows, from experience, that we do not have self determination here, as Aboriginal people and as indigenous owners of Australia, and these are some of the questions that they have got to talk about.

I would just like to say to Steve and to the other people that it was very disappointing last Friday night to go along to a meeting that was advertised at 7 pm, 5 pm and 6 pm and, when we arrived there at 7 pm, nobody was there. It was very disappointing, you know, when you are talking about something like this. As you say, this will affect our grandchildren. I am only a young man and I have no grandchildren yet, and this is the sort of thing that we are talking about. If you make your appointments, I believe you mob should turn up, because you get paid by the taxpayer.

We own land under the Northern Territory Lands Right Act in the Northern Territory, yet we derive very, very little benefit from the mining that takes place on our land and the exploitation by the tourist industry and so on. So, we could look at those questions about the dollars and how are we going to get equality out of this. We have got to look at education, educating our children. This present day in the Northern Territory, our children mainly only get taught one way, and that is the white fellow way. Very little Aboriginal culture and maintenance of language is done in the schools in the towns and all of that sort of thing.

How are we going to look at proposing the constitution? Do we have a Bill of Rights? Will we look at a Bill of Rights. Looking at using the United Nations covenants, you are doing a Bill of Rights before you get to doing a constitution. These questions have to be addressed, and we have to get the best legal advice throughout the world, not forgetting that the Prime Minister of Australia has committed the Australian government to a treaty between Aboriginals and non-Aboriginals of Australia. You are in a strongest position here in the Northern Territory because you hold the largest population of blacks throughout Australia, per head of capita. They say that we are one-third, but I believe we are more because a lot of people won't fill in the census forms.

We derive very, very little benefit from the distribution of money on an equal footing here in the Northern Territory. You all know, everybody knows that we have things like our health problems and all that and their liking of putting band-aids on instead of treatment - providing people with water, stopping them getting excisions and these types of things. But that is the political side. That is the CLP political side, fighting for the pastoralists and that. We cannot get excisions. A lot of people live here on Amoonguna. They can have excisions at that place. They could have been getting excisions, but the Northern Territory government has that right and so they have not been providing us with excisions or basic things like water. You have to prove that you can live on the excisions for years before you can get basic things like water.

Education is very, very important. We have none of that at the present time. But, I believe the Aboriginal people of the Northern Territory are in a position to negotiate, not consult. We should be in a position to negotiate. You have to negotiate this thing with us and not just consult, and we have to be in a position to develop up our own positions on what we want in here. It is very, very important. It will take a long time. You know, you are going to be spending a lot of money on these highfalutin' lawyers and things like that, as an Aboriginal community, but there are some questions that we have to address. If they roll over the top of us without negotiating with us and giving us our indigenous rights and giving us rights which have been agreed to and ratified within the United Nations, we might as well go home. I would recommend that all Aboriginal people, coming along to the conferences such as this, don't walk away. You have got to talk. If you walk away, you are going to have nothing. So you have to get in and talk to these lads and make sure that they pull their finger out and do the job around the countryside instead of not turning up for meetings when they arrange meetings. These are some of the things that we have to demand.

But ...

Mr HATTON: Vince, before you go on, let's get this clear. That meeting last Friday was advertised on television, on *Imparja*, for 6 pm for 2 weeks beforehand.

Mr FORRESTER: Yes, and then we heard at 5 to 7.

Mr HATTON: And we were there from 5 till after 7 o'clock and nobody had turned up. We were there at 5 o'clock and we left after 7 o'clock.

Mr FORRESTER: I was there at 7.

Mr HATTON: You had better check your watch because we were there until after 7 o'clock and nobody was there.

We had a meeting again last night, from 6 o'clock. We were there until 7.45, at the Youth Centre, and that was well advertised. You didn't come there either. Just a few people came. We have been at meetings all over the Centre now, up and down the Track and across east and west in the communities everywhere.

We had a second meeting there because people said they wanted to come to us. We held a second meeting and you didn't come to that one, but you caught up with us here because we have another meeting here, and you will have more chances in the future. You spoke to us last year too, when we were down here last year. You have got heaps of chances to talk to us. We are not trying to keep away from people.

Mr FORRESTER: Because you asked people and don't turn up in Alice Springs.

Mr HATTON: But we were there for 2 hours waiting for people to arrive, all right?

Mr FORRESTER: Anyway, we will get more into this. Are you blokes going to write up a Bill of Rights before you do the constitution?

Mr HATTON: The question is raised in that book about whether there should be or should not be. We are not saying you will or will not do this. It is not our job to do that. It is up to the people to tell us what they want in their constitution.

Mr FORRESTER: What about indigenous rights? How are we going to get a fair deal from the Northern Territory government?

Mr HATTON: That is raised there too. Should they be put in there? We are asking people if they think it should be or should not be. We are not going to say you must do this or must do that. It has to come from the people, Vince. We are going to put the questions out, and you have to come and tell us, right? I am not going to tell you what you have to have, neither is Brian neither is Colin. The people have got to say what they want to have.

Mr FORRESTER: Say, if we did ask for a Bill of Rights, would that go through Territory legislation or Commonwealth legislation?

Mr EDE: It would have to, if we were talking about a Bill of Rights. If you compare some constitutions, for example, the Queensland Constitution is 1 page. It says it is open, that's it, let's go. The Papua New Guinea Constitution runs to some 200 pages. The decision that we are going to develop in the process of this is how much we put in the constitution and how much we leave for ordinary legislation.

If the feeling of the people is that we should have all those principles which are in the United Nations Declaration of Human Rights, the ones that are in the Bill of Rights, all the ones about indigenous rights, the Almata declaration - that one on the rights of people towards health etc - if people say that all those things should be in there, they will be in there, but it is up for grabs. People have got to be involved and they have got to say that these are the things that they want in there. If people don't say it, if they say 'No, we will leave that out' it does not get in.

I was saying to people the other day, you can use an analogy. It is a bit like if you have a cheeky dog that goes out and bites people and you don't trust it. What you do is you put it on a bit of rope or a chain. Now you might decide how long that rope is depending on how cheeky the dog is. You might let it just whirl about inside your own yard, or you might close it up somehow.

That is what the constitution is. The constitution is the rope that you put around the neck of the government saying it can go that far and it cannot go any further. How long that rope is will depend on how much control the people decide is needed. If people say: 'Look, we are going to put in all these areas, the whole lot, and they are areas which only we have control of, not the government', that will be the decision and that is the way it will go.

Mr FORRESTER: Just on this point, a lot of Aboriginal people distrust the Northern Territory government right now.

Mr EDE: Yes.

Mr FORRESTER: That is the politics you blokes play in the House up there. You have this rope called the Australian Constitution but take, for instance, the changes to the Sacred Sites Act,

they give white fellows power to tell us black fellows what a sacred site is. White fellows know nothing about sacred site - only we. That is the type of thing. That is our religion.

Mr EDE: Exactly. That is the situation as it is now.

The argument that we have to develop during the period of developing the constitution is whether sacred sites - to what degree the law of sacred sites is to be entrenched in the constitution.

If a majority of the people agree that those things should be put into the constitution and entrenched there for all time, that is what will happen. But the people have to get together and work out how that is going to be done.

Mr FORRESTER: It is not ...

Mr HATTON: Can I just say something ,Vince. Could I just raise ...?

Mr FORRESTER: ...for white fellows to tell us what our religion is.

Mr HATTON: The trouble is, Vince, at the moment they have got that power. Right now they have that power because there is no constitutional protection, even in the Australian Constitution.

Mr FORRESTER: Oh yes there is, mate.

Mr HATTON: No, there is not, sorry.

Mr FORRESTER: There is on that point.

Mr HATTON: On your sacred sites? You are wrong

Mr FORRESTER: On your freedom of religion.

Mr HATTON: Freedom of religion, yes

Mr FORRESTER: You shall not make it law to interpret religion

Mr HATTON: In the federal constitution?

Mr NICHOLSON: There is a section 116 ...

Mr FORRESTER: 116.

Mr NICHOLSON: ... but it is doubtful if it applies in the Northern Territory.

Mr HATTON: Vince, you need to understand this ...

Mr FORRESTER: But we are supposed to be part of the federation of Australia.

Mr HATTON: No, this is your problem, Vince. It is because we are not a state. Australia is what they call a federation of states. That constitution is written for the federation of states. We are outside that.

The federal government can do what it likes in the Northern Territory, because we are only a Territory. We do not have the protection of the Australian Constitution, because we are a Territory. There is section 119 which says the federal government can do what it likes in the Northern Territory, and I'll tell you this ...

Mr FORRESTER: It's all right, you mob. We are just talking about the different points of the Australian Constitution.

Mr HATTON: I'll tell you this. The Land Rights Act is really important to Aboriginal people, but you need to know that the federal government has the power, if they wanted to, they can just repeal that act and wipe out land rights tomorrow.

Mr FIRMIN: They can repeal the Northern Territory Self-Government Act.

Mr HATTON: They can wipe out all government in the Northern Territory by repealing an act of parliament. They could take away any right to vote on anything, tomorrow. They have that power.

Build a constitution and put it in there, and you take the power out of the government and put the power in the hands of the people. You can do that with land rights, you can do that with sacred sites ...

Mr FIRMIN: The ability to vote.

Mr HATTON: ... you can do that with the right to vote. You can do that with the right to protect your religion and your culture.

Mr FORRESTER: Representation?

Mr HATTON: Representation? You can do that in a constitution but, without a constitution, the government is all powerful; it can do what it likes.

Mr FORRESTER: At the present time, we have the Self-Government Act leading the way to statehood, but we have only got 2 Senators.

Mr HATTON: Yes.

Mr FORRESTER: Us black fellows have no Senators, and we are saying: 'Hang on a minute. We might want 6 out of that 12 if you are going to go for it, if you are going to a state'.

Mr HATTON: That might be true. That might be something you can talk about, Vince. You might look at the New Zealand situation, and that is one thing that has to be talked about. In New Zealand, they have a special thing where there is guaranteed Maori representation in their parliament, but you have to look at the other side of that coin. That does not mean that Aboriginal

people get 2 votes. They have to choose. They have to be on the Aboriginal roll or the general roll. If you go on the Aboriginal vote roll, you would then vote for the Aboriginal representative. If you go on the general roll, you vote like you do now for the local member. You cannot vote for 2 of them.

Mr FORRESTER: There are some dangers in that.

Mr HATTON: That is right. That is why you have to talk it through, but the opportunity is there to talk about that in a constitution. Is that all right?

Mr FORRESTER: Yes.

Mr HATTON: But, without these things, you have no rights except what the government gives you, and what the government gives you the government can take away.

Mr FORRESTER: They make laws in that parliament up there.

Mr HATTON: And in Canberra.

Mr FORRESTER: And in Canberra. You look at the criminal law or something like that at the moment. They are holding a Royal Commission about deaths in custody. They are slaughtering us in their prisons. That is the white man's law. They are slaughtering us in those prisons and they are holding that law. We have our own legal system in the Aboriginal community. We have our own legal system. We have our own laws. Now these are some of the things. These white people that are going to be sitting in the Legislative Assembly, are they going to give us rights to discipline our own community ...

Mr FIRMIN: This may be part of it, Vince.

Mr FORRESTER: ... under our own laws, or what? Or are they going to keep on killing us in prisons by using their judicial sorts of things? These are the questions that we have to ask ourselves.

Mr HATTON: Sure, all those things can be talked about in this.

Mr FIRMIN: That is why, as we said earlier, it is a long way to go and we are just taking the first step. We have got a lot of walking through to do.

Mr HATTON: What is so important that you get involved in it, because this is the way you can take power - as the people, black and white all together - take power from the government back to the people on things that are really important to the people and that you are not going to let the government fiddle around with.

Mr FORRESTER: But the question has to be answered of our indigenous claims to this land.

Mr HATTON: Yes and ...

Mr FORRESTER: That has to be answered.

Mr HATTON: ... that is one of the questions that we have raised in there. On page 93 of that book you have got there, it is one of things that has been talked about there. We ask the question, and I said the same thing last night with the meeting in town. I have been saying it in the white communities: 'Look, you cannot just think for yourself. You have also got to think about the rights of Aboriginal people'. It is the same thing so I say to the Aboriginal people: 'You can think about your rights, but also think about the rights of the other person and together work out a way we can live together in this Territory with respect for each other's culture and ways and a common future'. We are all equal.

Mr FORRESTER: So that means to us Aboriginal people we look at this and we prepare our position on this, but the most important thing that we do, before we go into statehood in the Northern Territory, our negotiation point, we have got to work out our treaty.

Mr HATTON: That treaty is a federal government thing.

Mr FORRESTER: I say it now, it affects us because we are Aboriginal people. They are not going to give us statehood. In looking for statehood for the Northern Territory, the treaty must come first.

Mr HATTON: Hang on, that treaty thing is a federal government thing.

Mr FORRESTER: We are black fellows, not Territorians. We are (Gives group name in own language), we are ? mob from this country. We are not Territorians. That is Johnny-come-lately stuff. We are black fellows.

Mr HATTON: You are saying something different to a lot of Aboriginal people out there in the bush, I can tell you.

Mr FORRESTER: The treaty comes first. I say, the treaty must come first. The community of Croker Island has also said the treaty must come first.

Mr HATTON: That is wrong.

Mr FIRMIN: That is quite wrong.

Mr HATTON: Let's get it clear.

Mr FORRESTER: That is a quote.

Mr FIRMIN: The Minjilang President did not say that at all.

Mr HATTON: He was quite angry with whoever put that release out.

Mr FIRMIN: He was very angry about it actually, very angry that somebody said it in his name.

Mr EDE: What might be the case though, if we were talking about the treaty? The treaty has some principles and agreements, and it may be that, in developing those principles and agreements with regard to the treaty, some of the ideas about what will be in the constitution will

become clearer. It may be that both of those things can be developed side by side so that the principles of the treaty, to the extent that they are recognition of rights as regards land, culture, religion, language and education rights etc ...

Mr FORRESTER: But that is not sovereign rights.

Mr EDE: 'Sovereign rights' has a lot of different meanings to different people.

Mr FORRESTER: Yes. We are the sovereign people.

Mr EDE: Right. Well, it means different things to different people. As regards a whole lot of the other issues that are involved in them, those things can be addressed in the development of the constitution as well as being addressed in the development of the treaty.

Mr HATTON: This job is not going to happen in 5 minutes. It is going to take us years to get this constitution sorted out, as a people, and I do not know what the federal government is doing on this treaty or their timetable for it. They said they were going to have it done by 1991 or something, didn't they?

Mr FORRESTER: What are you looking at? 2001?

Mr HATTON: I don't know.

Mr FIRMIN: When we get it right.

Mr HATTON: It is for the people to tell us that.

Mr FIRMIN: When we get it right.

Mr HATTON: I reckon, if we can get this done in 3 to 5 years, we will have done a really quick job. I think there are too many big questions in here for it to happen really quickly.

Does anybody else want to raise any points or ask any questions?

A person: We will have a look at these. We will have a good look at it.

Mr FIRMIN: Fine. Have a bit of a think about it, eh.

A person: It is the first one we have seen.

Mr HATTON: I think we have pretty well covered it all up.

Mr FORRESTER: Thanks very much.

Mr HATTON: Thank you very much for having us along.

Mr FORRESTER: Don't forget about who owns them stories on your coat of arms.

Mr HATTON: Thank you.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

UTOPIA — Tuesday 18 April 1989

PRESENT: -

Committee:

Mr S. Hatton (Chairman)
Mr B. Ede (Deputy Chairman)
Mr R. Setter

Officers assisting the committee:

Mr R. Gray (Executive Officer)
Mr G. Nicholson (Legal Adviser)

Appearing before the committee:

Mr Ray PULA
Mr Harold NELSON
Ms Lena PULA

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

ISSUED: 1 August 1989.

Mr Ray PULA: Rernem angkeyel rernem mwerrantiyirrew anerlayntew. Anenhantherrenhe apekarl rernem pushem-eleyelewety. Rernem apek angkep aperyarralpeyenh anewantherrewarl. Arelhernem nhakenh arrentherran angkeyel wayleparlernemew. Rernem angkeyel anewantherrew mentye. Amer anewantherrewenh. Aleyanyem anenantherr pushem-eleyew. Amer anewantherrenhethy rernem anenantherr pushem-eleyel. Angkep rernem apeyalperlanewerr ikwerernem anantherre angke anyentengerlanem angkey.

Aweth rernem angkep petyalpelanekerr anantherr ikwerernem angke anyentengelanem.

They are saying that they want to be careful because they are pushing us. They might come back to us. Well, we have got to be strong. Come on ladies. They are saying to us no for our land. They are also trying to push us away from our land. We don't want to listen to them.

Mr HATTON: Thank you all for coming in here today to give us a chance to talk with you about the job that our committee has to do. If I could introduce myself, my name is Steve Hatton. I am in the Northern Territory parliament. You know Brian Ede here. He is your local member. He is also in the Northern Territory parliament, and this is Mr Rick Setter, the member for Jingili in the Northern Territory parliament. There are the 3 of us and another 3 people. You can see our photos in the back of this book here. We are the members of this committee of the parliament. There are 6 people in this committee, 3 from the government side, the CLP side, and 3 from the opposition side, the Labor Party side. There are equal numbers from the Labor Party and the CLP. You know, lots of times, we two groups argue about lots of things. The CLP and the Labor Party argue about a lot of things, all the time, in politics.

Sometimes though something comes up and it is really important, so it is more important than the politics. It is something that is for all the people of the Territory and on which, no matter whether we are Labor or CLP or whatever, we say that this is something that we have to work together on, all the people have to work together on. That is the sort of job that we are doing now and that is why we are here together talking to you and talking to other mobs all over the Northern Territory about this job.

I think you have heard lots of talk about whether or not the Northern Territory should be a state. Some people think that the Northern Territory being a state is a good thing, other people are frightened of it. They are not sure or they do not want it. They say we are not ready. I am not asking you today whether you think the Territory should be a state or should not be a state. That is not our job. Because, before you can even think about that question, you have to say: what sort of place do you want this Northern Territory to be? How do you want this place to run? How should the government run? How should the courts run? How should we get Aboriginal law and white man's law to work together? What do we want this place to be like for our children and for our grandchildren? How do we make a place like that? How can we make a law that is not going to be mucked around by the governments and that will make this place go in that direction? You know white man's law. You get one government in and it is going that way, and then there is a change of government and she is going back over this way. It goes backwards and forwards all the time.

That is very different to Aboriginal law, your law, which goes straight all the time, always the same, in the one direction and you know where you are. That is very different to white man's law, except for this sort of law which is what we call a constitution. This constitution is a law that is the boss over the government. It is a law that is made by the people and a law that the government cannot muck around with. It is a law that can only be changed if the people say it can be changed. It is a strong law. It becomes the boss over the top of the government and says what the government can do and what the government cannot do. It is how the people set the rules, set the law, for the government.

Governments all over Australia, in Queensland, Western Australia, South Australia, New South Wales, Victoria and Tasmania, even the Canberra government, they each have a constitution over the top of them. In the Northern Territory, we have not got that. The people here have not got that law over the top of the government, and that means that the government can do what it likes. You have not got this law to control it and the government can do what it likes. We say, all of us, that it is about time the people of the Northern Territory - and that is all the people, the Aboriginal people, the white people, the lot - sit down and talk and make a law like this, make this law to stand over the top of the government so that, for once, the people can say: 'We want this Northern Territory to go that way and to grow that way, and we are going to put this law in place so the government must go that way'. That is what this job is.

It is not a job that can be done quickly. You don't just get a couple of politicians or a couple of lawyers in Darwin to sit down and write it down and say that that's it: this one has to come from the people. This one you have to think about, you have to have a say on, and you have to agree to. It has to be your law and my law, and the law of the people in Alice Springs and in Darwin, a law for the city people and the bush people, a law for everyone. We have all got to agree on that law and the really important things. One important thing might be how to elect a government or your right to vote. It might be protection for land rights, so that the government cannot muck around with it or take it away from you. It might be protection for sacred sites, or protection for Aboriginal law, or language. There might be all sorts of things that are really important, and about which you say: 'It is too important. I am not going to let those governments muck around with this thing. It has to stay'. That sort of law you can write into here. It has to be a law too that means that the white people and the Aboriginal people say, together: 'That is where we want to go'.

Now we have had a lot of fighting in the Northern Territory between people. I think all the people in the Northern Territory would like to find a way where we do not have to fight in the future, where we can learn to live together with respect, as equals. Maybe, if we all get together and talk about this thing, we can find a way to do that. Let's hope so. We have to work for that because, if we can do this properly and we get this right, then we will leave behind something good for our children, for our grandchildren and for their children and for people in 100 years time. They will look back and say: 'They made this a good place for us, where people can live together with respect'. If we do not do this job, if we say that it is too hard and put it aside, they will look back at us and say: 'Why didn't they fix it up? Why did they let us keep fighting all time? Why didn't they sit down and try and fix up the problems and make this place good?' It is a responsibility you have and I have, it is a responsibility we all have, and an opportunity, if we are all prepared to work for that and try to get this one right.

As I said, this has to come from the people. Our committee is not going to write this for you. Our job is to talk to you about the sort of things that might go in that law. Our job is to encourage you, to say to you: 'You must think about this and talk about it amongst yourselves. Get your ideas together. Have your say about what goes in this law, and then you tell us later, maybe later this year or early next year, when you have had a good chance to think about it'. Then ...

Mr Harold NELSON: Ones like you need that. We got to tell our Aboriginal people and other Aboriginal people have to talk. We got to talk quietly about what you tell us. That is what you need when European and Aboriginal people are (inaudible). Do you get that? Do you understand what I speak?

Mr HATTON: I'm trying to. Say it again.

Mr NELSON: White people need - you've got to tell Aboriginal people what you want that way, and we will come together, black and white. You have to keep us knowing what you want from us.

Mr HATTON: I agree with you. That is right.

(Can't hear properly). Arratyeley. Yaw Yaw yanh renharlap re ilinepineme. Ran ayerneyel irrpwerlernemarl. Mpwelewenh atherrewenh inngarte yanhey amer. Athe apayutnheme renhenemarl ahtan amenterlarl apayutnhetyeke nhenhareye.

Yes, that's true, that's what they talking about. He is asking Aboriginal people. It's really your country over there isn't it? I'll ask them about it myself.

Mr NELSON: Well, what is the point? You are going to tell us.

Mr HATTON: And also ...

Mr NELSON: We don't want a problem.

Mr HATTON: Also the Aboriginal people have got to tell the white people what they want properly. I will tell you how we want to go about doing that, okay?

Mr NELSON: We like to approve what white people want from us. This outside law brings all sorts of problems. (inaudible) You got to tell them and we might say 'No, we don't let you come in'. We have to say it that way.

Mr HATTON: That's right, sure.

Mr NELSON: That is what is my mind

Mr HATTON: Yes, now let me tell you how we might go about doing what you are saying.

Now I come here now and I say: 'Look, we want to talk about this. You think about that'. I am going to Alice Springs and I am going to Tennant Creek, and Darwin and Katherine and all

over the Territory. We go to 59 places saying the same thing - to the white people and to the Aboriginal people. You think about this and you tell us what you're thinking, right? All different people are going to say different things, aren't they?

Mr NELSON: Yes.

Mr HATTON: That is all right. We get all those things together, we have a look through and we come out with what we think is what people are saying overall.

But then we have another question. We say: 'Look, we are not going to write this job for you. What we are going to do is give some ideas about what we think might be what the people are saying after you talk to us, but then we are going to want to get a big committee of representatives of people from all over the Northern Territory, right? And we want to make sure that they are people that can really represent the people in the Territory, all the people. They must come from different people all over to come together in one meeting, or many meetings, to talk about what we have done, have a look at it and say: 'I think that is good. I would like to change this' or whatever. Then we need to get the representatives of all of the people to start to write up this law that has all those things in it. And they will talk backwards and forwards about what they think they want, and you say what you want and that will go backwards and forwards and you start to talk about it, and see if you can find a way to work together.

When they finish their job, and they have this law written as they think it should be, then it will go out to all of the people to vote 'yes' or 'no'. All the people in the Northern Territory will vote yes or no. If they vote 'no', we go back and we start working again to fix up what they did not like. We will keep working, and working, and working until we get a law that the people vote 'yes' for. That way, through the meetings and discussions, you will hear what the white people are saying and the white people will hear what you are saying and, together, we will find a way to go forward together. We will find a track.

That is what we have to do. That is why I cannot come here today and say that I think it should be this way or that way. I have come here to say to you that you have got to start thinking about which way you think it should go. I can give you some ideas. We have done a lot of homework about this. In this book there are some ideas. This one that is going around. There are some around here and more are coming. We can show you that that has some ideas in it for you to have a look at. We have some books here, and I think that some are going around the communities too, To be circulated in the different ...

A lady: In the store and everywhere there are.

Mr HATTON: In the stores they are all around there, so have a look at those.

Then, there is this big one. That has a lot more ideas in it. We looked in America, the West Indies, New Zealand, New Guinea, in Africa and all around Australia at the different things they have put into this law, this constitution. I think some things in here are good and some things I think are bad. You will look here and say of some things: 'I like that', or 'I don't like that'. That is all right. It doesn't matter. It is there so you can have a look at all sorts of different things and make up your

mind about what you like and what you don't like. So these we leave behind too, so you have more stuff, more information to work with.

But, I will ask this of all of you. It is very easy to say: 'I don't want to do this. It is too hard. I am happy. I have got my land. I have my alsatian. I am building my home. I have got to get water and I have to get a job, and all that'. Well, they are important things to do. They really are, and you have to work, and we have all got to work at those problems. But also, you have to think about some things you have that you want to protect, some rights you want to protect so the government can't muck around with them.

You know that lots of arguments come up about what you would do with sacred sites. This way, you make some sort of law on the important things that says the government cannot touch that, it may be - your religion, your law or your language. Now maybe they are things you will put in here, but you have also got to explain to the white men, in Darwin and in Alice Springs, why that is important to you, so they understand, because with understanding comes respect, and with respect we grow together.

Maybe, this way, we can start to work down that road for all of us, for you for everybody, but we have got to work hard and I bet you there will be lots of arguments on the way. But, if you really want to do this job and you really want to do something for the future, for your grandchildren and for people in 100 years time, you will help make a law that, no matter which way the government goes, there is a law that is going one way over the top. If you want that, you must work at it. You must be involved in it. You must have your say on this law, so that it is your law as it is the law of the all the other people, and your grandchildren will look back and say: 'You did a good job for us. You made a good place for us to live in'.

If you can do that, then you have met your responsibilities to the future generations, and if I can do that too, I too have met my responsibility, and we must work to do that. I have said enough now. Brian, do you want to say a few words?

Mr EDE: I just want to say a few things from my side because people say to me: 'You are the deputy Labor Party boss so what are you doing wandering around with all this Country Party mob?' Well, why I am doing it is because I think we have got to try and find some way that we can really hold on and get really strong things for the things that we believe in for the Northern Territory.

One of the things that everybody is always talking to me about, when I am travelling around and I am talking about some new law or something, or something coming up for changing the Sacred Sites Act or everybody is talking, like you mob do, about getting up and going down to Canberra because the land rights laws are changing or might be changing or something, and everybody says: 'We don't like it that way. Our law goes straight'. People tell me: 'Aboriginal law goes straight. It came up from thousands of years before and goes on straight forever. One straight line all the way. It ...'

A person: It stays there too.

Mr EDE: It stays there. It goes straight like that.

'White fellow law', they say, 'it is going over this way. It comes up and goes around and comes back, from side to side, all over the place. And, sometimes, one is going straight that way, and this one comes up and they bump. And you have trouble. You have to try and go up again'.

Now, they can say that, yes, we have that land rights legislation that we got down in Canberra, the Labor Party down there. It is holding strong. We have got sacred sites up in Darwin, sacred sites legislation there. Maybe that might hold them strong - but, maybe, it will not. We might have another election and the Labor Party might get chucked out in Canberra. A new mob might come in and they might say they do not believe in land rights, and go and change that act. They can do it. It is just one little law down there. There are lots of laws that they put in, and they pull them out. You know that. How many times have white fellows been changing their law?

A person: 100 times.

Mr EDE: 100 times.

But, if we put them in a constitution, that makes it a lot harder to change them. Because governments cannot change a constitution. The people have to change it. People have to vote to change it. That way what we have is that, even if they change their government down in Canberra and another mob comes in, they cannot turn around and change this constitution if we have it written up and we have put it into the law here in the Northern Territory. Only the people can change it. So, this is one way of trying to tie things like that in, the really important things like land, like (indecipherable). It is a most important thing. It is something you stand on, like the ground. We are trying to make them so that everybody knows: that is that land; that one has got to stay there all the time. We cannot have some mob coming along and saying: 'No, we will cut it up. We will break it up into 3 different ways. You mob keep that little matchbox over there. We will give this piece back to that company there'. We will lock them in, that is what we are trying to do, and lock them in for sacred sites.

But I cannot go and put that in the constitution. I am just one fellow. It has got to be you mob. It has got to be Aboriginal people all around the Northern Territory. They have got to talk up and say: 'These are the things we want. These things are important for Aboriginal people'. You have got to stand up and really talk out for them. Because some mob in another part, from Tennant Creek or Alice Springs or somewhere, might say: 'No'. So you will have to come in and explain to those fellows why it is so important. You will have to explain why land rights is really important and has to be in there and stay there for a thousand years, and why sacred sites have to be there and stay there and be strong for a thousand years. You will have to make them understand, so they can agree and we can put them in that constitution.

If we get all those things in the constitution, and we have those powerful things in there, that makes this law be the same as Aboriginal law.

A person: Going one way.

Mr EDE: It will go one way, and then you will have Aboriginal law going one way and this white fellow law going the same way too, and we will not have this bumping all the time. That is what we are looking for.

Mr Nelson: What about (indecipherable) ...?

Mr EDE: Just to finish off, I will say one last thing. This one might take a long time. The first time we go around, we are going to put it together and we are going to find that everybody is talking in all different directions. It will be like a mob of puppy dogs with one going that way, one going that way and one going that way. It will be like a mob of brumbies or something. What we are going to have to do then is talk together and work it out. We will have to keep coming and pulling them closer and closer until we are all going the one way. That might take 5 years and it might take 10 years. That does not matter. How many thousand years have Aboriginal people been on this land? How many thousand years more will people be staying here? If it take 5 years or 10 years, it does not matter. If you do not like it, you say 'no'. Then we will go back and start again, and we will work it up until we get it right - but, we cannot go and stand outside and walk away from them.

That is because, if we walk away from this job and let all the other mob work it out, when they come up with it and we say: 'Oh, we don't like it'. They will say: 'Hey, where were you when we were talking about it? You wanted to go outside and go for walkabout, walk somewhere down the creek or something. You were not here when we talked, and you would not be strong to have a strong voice in there'. That is why we have to be all together in this one: talking out on it, talking at meetings and working out our positions. That way we will try and get as many things as we can agree on through first. When you all agree and agree, that is okay and, when we have an argument, we will come back together again after that and we will talk about it and talk about it until we fix it up. It may take 5 years, or it may take 10 years - that does not matter.

If, at the end, when we have finished, we have got this one all fixed up, then we will know that we are grown up. We will know this Northern Territory is a good place. We know the land is good. We know we all want to work together. Everybody wants a good life for themselves. They want a good life for their kids and for their grandchildren. They do not want to be arguing all the time. They want to put all that argument behind them and go forward. Let us get this one worked out. I reckon that will give us a really good start, if we do it properly. Thank you.

Mr HATTON: Rick, do you want to say a few words?

Mr SETTER: Yes, I will just say a few words, Steve, thank you.

I think it is very important that you all read this book because this book talks to you about a new law, a very strong law. It is just like Aboriginal law, a law that goes straight all the time. We call that the constitution.

In the Northern Territory, we do not have a constitution. We do not have that strong law, but we want it and we need it. You know, over there in Queensland, in Bulya, Bedourie, you know Urandangie and Cloncurry and Camooweal, they have got that law. They have got a constitution over there. You go over this way to Western Australia, and that mob has a constitution, and this mob down here in South Australia, they have a constitution. The Australian government, in Canberra, has a big constitution. There is a very strong law everywhere but not here. That means that the government in Canberra can come to the Northern Territory and tell us to do things. They can tell us to do this thing or that thing, and we have to do it. We cannot stop them, because we do

not have that strong law, the constitution. We do not have that. And that is why we say we must have a constitution like this one. It is very important.

In that constitution we need to put certain things. For example, we need to make sure that land rights are protected. That is very important, and we heard Brian talk about sacred sites. But there are many other things that need to be protected that are important to all people, including white people, because we need to learn to live to live together as one community in the Northern Territory.

One of these days, at some time in the future, we are going to become a state. There is no doubt about that. We will become a state just the same as Queensland, New South Wales, Victoria and Western Australia and the others. Let there be no mistake about that. How long that will take we do not know, but the first step and the most important step in protecting our own rights is writing this new law, this constitution law, and we want you to understand what it is all about and to tell us what you would like in that new law. That is very important, because Steve and Brian and me, we could sit down in Darwin and we could write that law. That would be easy. But, unless we have come and asked you what you want, you will not support it. You will say: 'I did not help write that law. I had no part in that. Why should I support it?' That is what you would say to me.

So we say to you, we want you to become involved and discuss with us, and to tell us what you would like in the new law, and that is why we are here today. We are here to explain to you what it is all about. We will come back later, maybe in 6 months time, after you have had plenty of time to talk about it and we will discuss it with you again. Thank you, Steve.

Mr HATTON: Thank you, Rick.

As we have said before, the Queensland mob have got a constitution. Still the Aboriginal people over there are fighting with the Queensland government all the time, aren't they? But, you see, their constitution was written over 100 years ago and, when they wrote that, they did not go and ask the Aboriginal people whether they thought it was good or bad. The Aboriginal people were not asked at all. But they have still that constitution. The trouble is that the needs of the Aboriginal people are not in there. It is the same in Western Australia.

This is the first time, the first time ever, even for the Canberra government, that we are going out saying to Aboriginal people: 'You have got to be in this too. It is for you too. So we have got to hear what you say'. Now, if you do not want to have your say and you want things to go on like they do elsewhere in Australia, and let that white mob write it, well it is not going to be good, is it?

People: No.

Mr HATTON: No. You have got to have your say. You have got to make sure you are strong and you say what you believe, and protect the future for your children and your grandchildren too. You cannot just walk away. They did not ask people when they wrote the Canberra constitution and they did not ask them when they wrote the Queensland one but, this time, we are asking you. For the first time ever in Australia, we are asking you: 'What do you think?' You put your things in there too, because you are part of this Northern Territory. You are the first people in this Northern Territory, and you should have your say in that constitution.

Mr PULA: That is why the people, they know what they think about, our people. When they think about the tribal law, (inaudible) and, all right, these government people they come and ask the people, they say: 'We want to try to change the law'. People, the Aboriginal people, they cannot do it with changing the law.

Mr NELSON: Never.

Mr PULA: Well, that is why the people won't trust you anyway, Aboriginal people.

Mr HATTON: Yes. The Aboriginals, their law is always the same. It does not change.

Mr NELSON: It never changes.

Mr HATTON: That is right. I understand that. What is important is that you make sure that you write into this law something that says they cannot try to change it. All right? This constitution is the white man's way, if you like, of protecting the Aboriginal law. It is our way of doing that sort of thing. It is not a way to take off your law. Maybe it is a way of making your law stronger, in the white man's way.

Mr NELSON: Yes, look at that white man talking to us now. (indecipherable) ... that government in Darwin. That is what spoils everything. Too many governments in the Northern Territory. That is what spoils everything. Too many bosses, arguing, pulling one another. That is the problem now.

Mr HATTON: Yes, that is right.

Mr NELSON: That is for sure. We never change. Aboriginal law never changes, never. We are going to keep this law, all the time.

Mr HATTON: We are saying that this is part of how the Northern Territory gets up above all our problems. This is how it gets up there. This is when the Northern Territory people, you, the people in Darwin, everyone, you all stand up together and say: 'This is our home. This is the way we want this place to go'.

Mr PULA: That is the way like people was brought up. Never change, never go any way. (inaudible). Same same, you and me. (inaudible).

Mr HATTON: Yes. And we have got to have something that stands up there and says to the government: 'You stop mucking around with that. You leave that alone'.

This man gives a good example of that. He says that if you have a crazy dog and he is biting everyone, you put a rope around his neck, and you say: 'Okay, you can go that far but after that you cannot go because the rope will stop you'. That is like this constitution. This constitution is a rope around the neck of the government. It says the government can go out there, but it cannot go past that line. Do you want to give the government a long rope or a short rope?

Mr NELSON: (indecipherable) like there are so many people. There are a lot of government people who promise that. We have nothing come good. We never did, none. Only housing, that is all.

Mr HATTON: There have been all sorts of ...

Mr NELSON: The government people never do any good for Aboriginal people, none.

Mr HATTON: No, I do not agree with that. I am not going to fight now. There are lots of things that they do that are good for Aboriginal people, but they might not be all the things that you want them to do. I will agree with that. There is a lot more things that have got to be done.

Mrs PULA: Speaking own language.

Mr NELSON: Speaking own language.

People discussing together.

Mr HATTON: You know there is lots of fighting. You ask the European people, they know that you have sacred sites, your dreaming and your law, but they might not understand it. They sort of know that something like that is out there but that is Aboriginal business. That is your law. Many white people do not really understand. Then what happens? A mining company comes along and they say: 'We want to go in that area'. And then they get into a big argument about whether they can go there or there or where, and they do not understand. And you get ...

Mr PULA: They don't listen.

Mr HATTON: That is true too, they do not listen.

Mr PULA: They have got to listen.

Mr HATTON: I agree with that.

Mr PULA: That is why (inaudible) agreement about the law ...

Mr HATTON: And we have different laws in the white man's things, and the laws are fighting each other, even the white man's way, aren't they? There is a sacred sites law there, a land rights law there and a mining law over there, and they are all fighting each other.

But sometimes you write a law that says: 'Forget all that stuff. This one is the top one'. That is the most important one, and that is this constitution law. Right? So, if you say: 'We are going to go that way, and everything has got to be OK with that. You cannot break this one'. Then, you put it in here. Then the government cannot muck around with that. Right?

It is up to all the people then. Only the people can do that. Do you remember that last year you had to vote in a referendum. You had to say 'yes' or 'no', for the federal constitution. Do you remember that last year? Well, that was to change the constitution. The government wanted to do some things, and the people looked at it, and they said 'no'. And the government could not do it. It is the same thing with this sort of law.

Mr PULA: Artwernem arem Government nhakenh rntw ingwerekoyangenh law anewantherrewenh. Amer nhenhan ilekarl. Amer yanhan Utopis ngay. Rntw tyeng ile.

When the people look at it the government can't do it, same hting this little law. What is this place called? Utopis indeed. You tell me what it is.

Mr HATTON: Yes, you tell me what it is.

Mr PULA: Utopia. What do you call it?

Mr HATTON: We call this Utopia. What do you call it?

Mr PULA: The government has been keeping from the community, the Aboriginal people, why no mining men, oil company or any other European people can't come through.

Mr HATTON: That is right

Mr PULA: That is Aboriginal land. That is why we can keep this one way. We have got to live like that. It never change. Nothing change anything. You come and ask me: we change this way. We get oil or anything, mining, anything like that, minerals or something ...

Mr HATTON: I have got to come and ask you.

Mr PULA: ... you can ask me (inaudible) still say no for an answer. Never. This is Aboriginal land and no white men come through here, like mining companies or whatever. They can't get through. But the government will give them (inaudible) for Aboriginal people. (inaudible).

Mr HATTON: Yes. Do understand this - and I am not saying it is going to happen. I do not believe it will happen, no matter what happens, but it is a question of understanding how our law works.

What the government gives you, the government can take away from you. Do you know that? What the people give you, the government cannot take away from you. Now, I do not think this will happen. I think it is there and it will stay there forever, no matter who is in government. That is the land rights. I believe that but, if those people in Sydney and Melbourne decide to change their mind and think that they do not like this land rights, and they have a big election and they vote people in who are against the land rights, the federal government has the power to say: 'Get rid of that law'. If that happens, all the land rights have gone. They can do that. I do not think they will. I do not believe they will, but they have the power to do that in the parliament. If it is in a constitution, the government cannot touch it. That is the difference in our law. Do you understand that?

A person: Yes.

People discussing together.

Mr EDE: Let me just explain this. This one here, it is a microphone. If anybody feels a bit shy and does not want to come right up inside to talk about it, you can talk from this one too. And

they can take it down. They can put it down. It does not matter if it is in language, or someone being interpreter or what. Just talk into this one. It will all go down there. We can write it all up and we will have a full record of what everybody is saying. Or, we can try and answer the questions.

Mrs PULA: Ayern renh nhakenh arrentherr ikwer angkeyew. Re ayerneyel ingkerr law anewantherrewenh Government angkwarr aneyew. Anewantherrewenh Labor nyent anerlaynteyew. Ingwerernem apek apateyel. Rntw apek renh awayal ngay.

Re arw apeyalhew irrpwerl ayerneyew. Ran nhankenh ngenh amer rekeyangenh arwarl re ngkweng ayerneyel. Amer anewantherrenh anantherr rlterkerl arntwerrkaynteyew. And don't chuckem away Labor government.

Ask him what it that he is saying to you men. He is asking us to put all of our law together with the government law. They want us to be with one government, with Labor. The others don't know what's going on. The Labor party want us to be strong for our land. Some of you don't understand what he's saying to you people. He didn't come here to take all of your land. He is trying to make you understand. Another white man might come in and take your land away from you people. That man is giving us the idea to be strong and stuff. That is the Labor party now. He's not CLP, he's ALP. He's not asking you to give your land away. He wants us to hold our land and be strong. This man came to ask us what we want. To stay in one area and don't throw away the Labor Government. You've got to keep going and keep right on.

Mr NELSON: Speaking in language.

Mr PULA: Speaking in language.

Mr NELSON: Speaking in language.

People discussing together and with committee members.

Mr EDE: I am not going to say: 'You have to put this one in your constitution'. That is for you mob to work on. And we do not want to come in and say: 'Now, righto, what do you want in the constitution?', and have everybody try to put up their hands, and they might forget something. What we want everybody to do is, go back in the community, talk about it and think what are those important things. How are we going to put those strongest things that we want in there, because you have lots of things you want to think about.

Okay, we were talking before about sacred sites, land rights and those things. You may want other things in there too, about human rights, about people's right to have good education, their right to be healthy and their right to look after their religion. They are all really important things. People want to see how much of those things we can put in the constitution - or do we want to put them underneath and leave them the same way and let the the government change them? You have got to decide on those things.

Some countries put them in their constitution, some people leave them out. We have got to decide what things we want to put in.

We want to try and get some tape recordings and get them done in language so we send them out and the people can use a tape recorder.

Ms LENA PULA: They can talk about language.

Mr EDE: Yes, language.

Mr Ray PULA: (inaudible).

Mr HATTON: Yes, everyone can talk. If you are looking at this and you think that you are not sure what is meant by something and you want to get more information, well you can ring us up on a telephone number in here. It will cost you nothing. Or you can write a letter ...

Mr EDE: There is no telephone.

Mr HATTON: He said there is no telephone. Well, you write a letter. Or, when this man comes around, as he should do, you say: 'you get that mob to come back and have a talk to us about this thing and or that thing'. Okay? 'So we can learn a bit more and go away and think about that'. When you have really talked it through properly, then we will come back and you can tell us what you think, and then we tell you also what that Arnhem Land mob are saying and maybe what that Pitjantjatjara mob are saying and maybe what the Darwin mob are saying. We will tell them what you are saying. Then we can see what you think of what they are thinking and see what they think of what you are thinking. That way we will start to get all the ideas together, all over the place. Bit by bit, we will find lots of things we agree on and we will start writing them up. Then we will see the things we do not agree on and we will sit down and start talking about them. Over a period of time, we will get it right.

Mr NELSON: Nhakenh arrentherr iterrerreyel angenharey amer arrewantherrewenh. Amer nhanyeman ngkwengarl anthew. Anantherrarl pwathan aneyel amer nhenhew. Waylpalan arrangwarl arwant rerneman angkeyel not ngenh amer rakeyel. Government-warl rernem Culture ngkwenh pwiteleyew. Two of them in Canberra, Aboriginal government and whiteman government, they should be there together.

What are you people thinking about your country? Come on old man, this is your land; they gave you this land. We are the bosses of this land - not whitefellas. Whitefellas are just asking, not coming to steal your land. What are they asking us for this land? This is black people's land. White man government, they would be with the government. Aboriginal government and whitemans' government, they should be there together. Two of them together in Canberra.

Canberra - Aboriginal government and white man government, they should be there together. Aboriginal people, probably as they go to school and, if they learn properly, they could

work together in Canberra or somewhere. We should have one government in Canberra, not everywhere. They are in too many places.

Mr EDE: Maybe, some day, that might happen, it might be just one government, in Canberra, and then just local governments looking after each place. A lot of different people think that way but a lot of people say no to it. I think we will probably end up with the Northern Territory government being around in Darwin - Labor Party government or CLP government or National government or whatever - for quite a number of years yet. It will probably be a long time before all of Australia changes and says: no more state governments.

Mr NELSON: What for 4 different governments?

Mr EDE: Actually, 7.

Mr NELSON: 7 different governments.

Mr EDE: We have 1 for Queensland ... Oh, you mean 4 for different levels?

Mr NELSON: Yes - or 3.

Mr EDE: There are 3. We have the federal government on top, state or territory government underneath, and then local government down close to the people. It is true that some people say we should get rid of that state level in the middle and we should just have the federal one on top and then this other one down around close, but I think that, if we hang around and say: 'We are not going to do anything because we are waiting for that day to come when those state governments get thrown away', we might be waiting for 100 years or something.

Mr SETTER: It will not happen in our lifetime.

Mr EDE: It might be a long time.

All I am saying is that we know at the moment people are going towards this other road of having a state the same as everybody else. We know that road is there. I think maybe we have to see that we have a strong constitution so that we can be a bit safe when we go along that road and have protection for all the things that we want to put in that constitution. If, later on, they decide to finish off all the states, we will be part of that too.

Mr NELSON: Rernem ilkelheyel anantherr ikwerernem apeny anerlaynteyew. Anantherran waylpalewenh law-wety arlkarerreyel. Waylepal amer irrpwerlewenhewarl aylpenheyalhew. Kel anantherr ingkerranem anerlayntey warrkerlayntey anyenterlanem.

They want us to be like them. We don't want whitefella's law. White men come into blackfella's law and country. Well, they'll be in one law with us. We can work together. We can work together as one.

What about the Aboriginal law, our law? White man come to that law and we will work together or anything that we can do.

Mr EDE: It is probably pretty hard for us to get - because we are Northern Territory mob, we have not got the power to go to Canberra and say to Canberra mob: 'You have to put Aboriginal law in your constitution'. You see, I am not a member of parliament for up there. You can talk to members of parliament for Canberra about whether they should change that one and put that in that constitution and ask all the people all around Australia if they will agree. You can talk about that one, but that might be really hard.

If we put them in for the Northern Territory first, into our constitution, then we will show that other mob that you can do it. By putting them in the Northern Territory constitution, we can show them that people can work these things out.

Mr PULA: What to put in our law for the Northern Territory, a lot of the people of the community might think about a lot of things too themselves.

Mr HATTON: That is right. That is what we are going to talk about.

Mr PULA: Probably the Aboriginal people might want to carry on their law and I think that might be right. I say probably that is right.

Mr EDE: Yes.

Mr PULA: If the government of the Northern Territory ... speaking in language ... in Canberra. Too hard for black community.

Mr EDE: Lots of people are really frightened of the Northern Territory government. That is true. People do not believe them and they do not trust them.

What this one does, if we got them in the constitution, the Northern Territory government cannot touch them. We will be putting up a fence and saying: 'Here we are. Here is the fence. Northern Territory government, you can make your acts and things and change around on this side, but you cannot come over this side of the fence. These things are in there, where Aboriginal law goes on straight all the way'. But, you have to find out where you want to put that fence and what things you want to put inside that yard that they cannot touch.

A lady: That is the law now.

Mr HATTON: Can I say this too, because it is important to say. I know these things are important. I know Aboriginal people are going to want to put these things in, to protect their law, their land, their sacred sites, language and culture and so on. It is important. But you have to know too, and I would not be honest with you if I did not say, that there are some white people that would say something different.

They do not understand, and so part of this job is the Aboriginal people explaining to other people why this is important. That is why you must be there to talk about it. You have to explain to those people in Darwin and Alice Springs why this is important to you. It is not good enough just to

tell me here. You have to tell them down there and up there, at this constitution meeting, so they understand what you are talking about and why it is important to you. They must understand that it will not hurt them if you have this. That is part of doing this job. So you think: 'Okay, now I have to make sure these people understand'.

I said before, when you understand things, you get respect. If people do not understand, they do not have respect. So part of the job is to make sure you teach the white people why this is important to you so that they understand more and that way they have respect more. Then we do not get so many fights and we can set this thing properly. That is why it is going to take a long time to talk, but we have to take that first step. We must take that first step and start working in this way and get it done so that all the people come together and work together for the future.

Person speaking: Kelanem angkelayntenharey waylpal yanhew. Arw re angkeyel. Nge apek iterreyew alakenh rerneman angkeyel anewantherrew antherr. Government anyentel anerlaynteyew. Culture then anantherr lterkel antwerkaynteyew. NT State mpwareyew rernem angkeyel. Rernem angkeyel State mpwareyew. Kelepenh anantherr amer anewantherrewenh rakeyewaney Labor Government-el arntarntareyew anenhantherrenh.

Anenhantherrenh. Store arrantherr inepinem, motor car arrantherr inepinem, Labor government, money rick mpwarelhek arrantherr, don't wrong angkerrel. They never talking for apwers, mining company, they never looking for mining company. Don't chuckem away. That's true I'm telling you mob.

You lot talk now to that white man. He's just talking. What he is saying is that they just want us to give them ideas so that we can be one government and one law. We've got to keep hanging on to our culture strongly. The Labor Government have been helping us for our land. They are talking about making this Northern Territory into a state. They are not saying we should change our law. They are just telling us to be strong. They are not telling us they want to take our land away from us.

You've got stores and motor cars. The Labor government has made you mob rich. They're not talking about mining companies. Don't chuck them away. I'm telling you mob the truth.

Mr HATTON: This book has been made by our committee. It is just to help people, to give some ideas, that is all.

Persons speaking together in language.

A lady: ... or they change religion or they change the law.

Persons speaking together in language.

Mr EDE: Now, people can change them. If we can lock them into this constitution, that will bolt them down. That is like putting a leg rope on them to stop them from going all over the place..

This one will tie them up. This way, the Northern Territory government or Canberra government cannot go and change them around.

Mr PULA: Brian, what about ...?

A person: You know, governments, they change them all the time.

Mr HATTON: These are things you do not want them to change.

Mr NELSON: ... altogether, any way we can get it ... that is what people want (indecipherable).

If you call them Aboriginal people, and white people and black people, we will put it that way and it might be all right.

Mr EDE: What we are saying is that we do not want one up the top here and one down the bottom. We do not want to change them around like that. We want to make them square. So everybody has an equal way of going ahead, equal for kids for getting education and chances for going ahead and having a good life.

Your law is a little bit different in this way than this one, but they can both still be side by side, going on like that to hold them strong.

Mr PULA: That is why the people want it now. We had better ask them.

Mr HATTON: We have got to work out how to do that.

Mr PULA: Alakenh ikwerarlap anantherr ayerneyel arrenantherr. Anantherr anyentel aneyew. Arrangkwarl remnem anenhantherr iweyewan. Irrpwerlan law alkenhakerl. Nthakenanem anantherr irreyenh.

That's what we are asking you; for all of us to be together. They are not trying to throw us away. No, they want to make the Northern Territory into a state. Black law is a big thing.

Yes. Same as government people, you know, they got all the different stories about (inaudible).

Mr EDE: Aboriginal law is a really big thing. It has lots of different things in there from lots of dreaming places, lots of things. The thing is, what things we can pull from there and write them down so we can say: 'That is a thing that is not going to change'. We have to find out how to write them down. We have to write them down in a way that holds all your things that you need to hold strong, very strong. At the same time, we do not want to frighten everybody else, all the white fellows.

A lot of white fellows in town, they think: 'Oh, all that Aboriginal mob are going to want to take all the Northern Territory. They want to push us out from our house and take everything over'. Now, that is silly talk, but they get frightened. So, we have to tell them: 'Look don't be frightened.'

We just want to be square. We just want to share so everybody has a fair go'. We have got to stop them from being frightened like that, and then they can agree.

Mr PULA: Treat Aboriginal children properly and they work together, the government law. That is why they have to get that law. Aboriginal kids have got to learn properly and they can work together and run that law, how we have got to use it, so we can carry on that one all the time.

Mr EDE: It might be good.

Mr PULA: We don't want to change. With one going this side and one going this side it is no good. We have got a lot of problems now in the Northern Territory, all over.

Mr EDE: But we can pull them back together again, if we can find those things that we agree on and put them so they do not change.

Mr PULA: And we find the right track and we can work.

Mr EDE: Like he said, finding that track. We have to find that straight track going through, that keeps on going and going like that. But we have got to look, and show everybody where it is.

Persons speaking: Mpe showem-eley ampwal. Nat anantherr ayerneyel arrenhantherr. Arwarl rememan ayerneyel law anewantherrewenh pwiteleyew Governemntewarl law anantherr aley lterrkarl anyeneyel.

We've got to show everything. They are not asking us to take our land. Tell them two. We've got to look after everything. They are just asking us to put our law with the government law. We put our law in and we can still keep it strong.

Person Speaking: Ingketyapenh rntw amerlareyew. Anantherrap ikwerernemew ingkerrew rnerneyew waylpalerl law anewantherrewenh lockem-elewerr intemantey. Rerneman arrkernelheyel law anewantherrewenh Governemntewarlarl akwerneyew. Waylpal yanhatherr ayernenharey.

Find the track so that we can see and show everybody where it is. You people think these white men will lock up our law for ever. But they are trying to put our law in through government. So we'll ask those two whitefellas.

Mr EDE: This one here, that is made to look like parliament at work, federal parliament down in Canberra. That is what that picture there is. And this is saying that all the different people of the Northern Territory - Aboriginal people, white fellows, Chinese, Filipino, everyone, even that bloke with spiky hair like that, I don't know what you call him - will be coming together as one Territory, one Northern Territory, and getting to agree on those things that we want for our constitution. Then they are taking that to the federal parliament down in Canberra. That is because, after we have all agreed on those things, we have to take them down there and they have to make a

constitution for the Northern Territory. But we have all got to agree first. If we all agree, then we can ask them to agree to put it through their parliament.

If they see that we are all fighting and we can't agree, they will not pass it. That is why we have to have everything through first.

Mr NELSON: That is why people have to talk about it now. That is why they want it. They can't change Aboriginal law.

Mr EDE: Yes. Just put it in there. But we have all got to agree to it first.

People talking in language and with committee members.

Mr HATTON: I will explain it. It is because, in the federal constitution itself, there are some laws that say you can make a new state. You can make a new state like that. If they make it, the constitution locks it up, and then the federal constitution locks it up, so it gets accepted up into that federal mob and it gets away from the federal government too. The federal parliament passes it, but it comes up and gets locked in as part of the Australian Constitution. That is where it gets that extra protection. That is why, later on, the federal government can't come back and change it. There is a clause in the federal constitution that says that, if this constitution is here before we become a state, then the federal government can't touch it. It says that in the Australian Constitution is the boss over the federal government, and that is where this is protected.

Mr EDE: That is why the constitution has to come first. Don't let anyone come and try to tell you that we will have a state next month, or next year or sometime or something. Say: 'Look don't talk to me about that'. The constitution is what we have to develop up.

Mr HATTON: We have to do this job first.

Mr EDE: If we all agree on a constitution, we might say that, okay, we will go on on to statehood or we might say: 'No, we will just hold onto that constitution and go the way we are'. We will make that decision later on. The first thing we have to do is work together to get the constitution, because that is what will pull us all together.

Person speaking: Rernem anewantherr angkeyel law anantherr riterrk anyenaynteyew law anewantherrewenh intemarl aynteley. Kel lengk lengkan law rntw ngkweny akwerneyew Government-angkwarre. Alakenh rernem ngenh ayerneyel. Irrpwerl anyent ikwerernem warckerreyel. Milingimbi-areny. Mwerrang alakenh ngay anewantherr. Inpe yekwe nhakenharlap rerneman iterreyel law anewantherrewenhew. Arw anenhantherren rernem akaltyantheyel.

They want us to be strong for our law. But our law has been with us from way back. Well this time put our law through government. They are jut asking us to put our law with the government. They've got one black from the Top End, one man working with them from Melville Island. He is with the white man. Do you people think that it's a good idea? We don't know yet. What will they do if they put

our law through. Don't say yes to them. no, we'll just ask them to make us understand.

Mr EDE: What does everyone reckon? Do you want to talk more about it now, or do you want us to close up now so that you can all go away and talk amongst yourselves? What do you think?

Person speaking: Nthankenh anantherran angkeyenh ikwerernemew. Yaw Yaw apek anatherr ikwerernemew angkeyenh ngay. Rernem alkwenteyel law anewantherrenh Government-warl ingkerr aneyew. Arrentherr apek ilkelheyel alakenhanyemew ngay. Irrpwerle alepe waylpaalthenew anyentantey anerlaynteyew.

What are we going to say to them? We've got to say one way for them. Why can't we say yes or no? They want us to keep our culture. They want us to put our culture through the government. Some of you don't understand. Do you want it that way? No, you mob understand what he means. Whitefellas and blackfellas to be one, to be together.

Mr EDE: Does anybody want to talk more about this thing now, or do you want to close it off now? We have just opened this one up really. That is just to start off. Everything will keep on going. Do you want us to say that that is enough for this meeting and then everybody can go back to your community or where ever and talk about it? People can talk about it when the council meets, or talk about it at different times again.

Mr NELSON: No, Brian,

Mr EDE: Do you want to go on, or what?

Mr NELSON: White people in the community will say (indecipherable) and carry on that one. This is all right and that is nothing to do with this. Come back again and go back again, too many minds, too many talking and we can't (inaudible) the people and we can't see them.

Mrs PULA: Now we have got to talk about it, once.

People speaking together in language.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

MUTITJULU — Thursday 17 May 1990

PRESENT:-

Committee:

Mr Hatton (Chairman)
Mr Bailey
Mr Firmin

Officers assisting the committee:

Mr R Gray (Executive Officer)
Mr G Nicholson (Legal Adviser)
Mrs L Ellis (Interpreter)
Mrs L Wilson (Interpreter)

Appearing before the committee:

Trigger
Johnny Jingo
Howard Doolan
Allan Wilson
Sandra Armstrong
Toby Ginger
Rita Bulla

Others Present:

Alison Hunt

Edited transcript

Issued: 9 January 1991.

NOTE: Tapes 001 and 002 are blank. The hearing began some time before the beginning of this transcript.

Mr HATTON: It is important for Aboriginal people to keep their law, culture and language so that their history and future are one, as always.

Ms ELLIS translating.

Mr HATTON: What we are trying to do with this is what happens with the Mutitjulu Council or the association. You write the rules to determine what the committee can or cannot do. The people write the rules as they did with the Mutitjulu Council.

Ms ELLIS translating.

TRIGGER: Speaking in Aboriginal language . Black and white fellow, we are talking already together.

Mr HATTON: That is right. We are together. But, what we have to do is sit down together and write the rules on how the Northern Territory is to be run, as has been done with the council. The government is like a big committee that is elected by the people. You have to write the rules stating what the government is permitted to do and what it cannot touch. There are some things that are so important that they must be kept aside from government. You have to put a fence around the government or tell it that it can move down this road but cannot move off it. That is how the people write the rules.

TRIGGER: We cannot say yes to this now. We have got to think about it.

Ms ELLIS translating.

People talking in Aboriginal language.

UNIDENTIFIED PERSON: White man rules and Aboriginal rules. (Indecipherable).

People talking in Aboriginal language.

Ms ELLIS talking in Aboriginal language with snatches of English.

Mr HATTON: If you want to protect the dreamtime law, you must ensure that something is written into this document to say that that law must be strong and must always be there. The good thing about this law is that it sits over the top of the government. The government cannot get out from underneath it. It holds the government down. When you do not trust the government, you write something in there to stop it from mucking about with your law for example. That is why this law is so important. It enables you to be the boss over the government in relation to things that are very important to you, such as your law. Do you understand that?

Ms ELLIS interpreting.

Mr HATTON: It will be a new law. It has not been written yet. We are asking you what you want to put in that law.

People talking in Aboriginal language.

Ms ELLIS speaking in Aboriginal language.

Mr WILSON: That is whitefella law. We are just running around. (Continues speaking in indecipherable English and also in Aboriginal language).

People talking in Aboriginal language.

Mr HATTON: We support the land rights. Nobody here is trying to stop the land rights. We are telling you that, if you do not trust the government, you can write something in this law that will mean that no government can ever touch your land rights. This will be a strong law that will sit over the top of the government.

TONY: We have got another book over there in that land council and you are going to bring in another book.

Mr HATTON: That is what we are trying to talk about. We want to explain the different sorts of law. Your land rights act is a Canberra law.

TONY: Okay.

Mr HATTON: That is a strong law. I do not think that it would happen, but it is possible that a future government could take that law away. You know how the white men do that. However, if you put that law in a constitution, no government can touch it. You can make your laws stronger in that way.

Ms ELLIS interpreting.

People talking in Aboriginal language.

Mr HATTON: This constitution is a law which is written not by the government but by the people.

Ms ELLIS interpreting.

Mr HATTON: When this law is written by the people, it becomes the No 1 law. It is above everything. It sits over the government and is the rules by which the government has to act.

Ms ELLIS interpreting.

UNIDENTIFIED PERSON: Why can't the land council be involved in this?

Mr HATTON: The land council can come and talk to us, just as you can talk to us. Anybody in the Northern Territory can have their say about what should be put in this law. This will only become a law after all the people in the Northern Territory vote yes for it. If the people do not

like it and vote no, we will have to start again. We will keep working until the people vote yes. It is the people's law, not the government's law.

Mr DOOLAN: We have to be careful.

Mr HATTON: Very careful.

Mr DOOLAN: We have got a government. You have got a government and I have got a government ... from white man time and we do not know.

Mr HATTON: I agree that you have to be very careful about this. We have to make sure that people understand how important this law is because, when it is made, it will last a long time. As you said, you have your government from your grandfathers and that law has remained all the time. This law will keep going all the time. We have to work to make sure that we get it right. We have to take our time and think very carefully. You must make sure that you have your say about what goes into this law. Don't leave it to that other mob. You have to be part of this law. You will be looking after your people and your children and grandchildren by making sure that this law is done the right way.

People speaking in Aboriginal language with snatches of English.

Mr HATTON: You are right. There are 2 laws. There is your law from your grandfathers and there is white man's law. The white man's law does not have Aboriginal law in it.

Ms ELLIS speaking in Aboriginal language.

Mr WILSON: (Indecipherable).

Mr HATTON: I agree that that is the only way to go ahead. We must work together. We must work with Aboriginal people in relation to the way they want to go. The Aboriginal people must ensure that this law contains rules which require that the Aboriginal law and culture must be recognised by the white man and that it cannot be mucked about with. When you do not trust the government, you write it in here so that the government cannot muck about with it. That is the strength of this law and that is why Aboriginal people must have their say in relation to it.

Ms ELLIS translating.

People speaking in Aboriginal language.

Mr HATTON: We want to work with the Aboriginal people. We want to support the directions in which Aboriginal people want to go. We do not want to do the job for you. We want to work with you and to help keep your families together. We have to talk about the grog and things like that. That is important and we have to find ways to deal with that. This afternoon, after this meeting, we will talk about the grog, health and other things at a separate meeting. At this meeting, we want to talk about this law. After lunch, we will talk about the grog and how the government can work with the people.

TRIGGER: (Indecipherable).

Mr HATTON: We will talk about all those health matters after lunch. We will do one job at a time otherwise we will become confused.

People speaking in Aboriginal language.

Mr BAILEY: My name is John Bailey. I am with the Labor Party and I talking about the book.

Ms ELLIS translating.

Mr BAILEY: When the white men came to Australia 200 years ago, they brought laws from overseas. They ignored Aboriginal law. Aboriginal law meant nothing to the people who came over 200 years ago. In Australia, they started to make their own laws about what people could do, where they could drink, how old they needed to be to drink, when they could marry and so on. The white man made bits of laws, one after another.

Ms ELLIS translating.

People speaking in Aboriginal language.

Mr BAILEY: As the white men made more and more laws, they felt that they needed a law to control the laws.

Ms ELLIS translating.

People speaking in Aboriginal language.

Mr BAILEY: As I said, they made a law that controls other laws in the states. For example, Queensland and Western Australia have constitutions. However, most constitutions did not take account of Aboriginal law.

Ms ELLIS translating.

Mr JINGO speaking in Aboriginal language.

Mr BAILEY: The Australian government, the Canberra mob, have a constitution. There are some things in the constitution which you cannot change without lots of trouble. All the people have to vote. However, land rights are not in the constitution. If the government changes in Canberra or if the government changes its mind, it can take land rights away. When you talk about a constitution, you are talking about a law that controls the laws. It is very important and therefore you must think carefully when you make it.

Ms ELLIS translating.

Mr BAILEY: For a long time, the Northern Territory has been controlled by Canberra and by some mob in Darwin. As more people come to the Northern Territory, more laws will be made in the Northern Territory. We do not have to have a constitution. However, if you do not have a constitution, the law that controls laws, then laws that people do not want may be introduced. If you have a strong constitution, future governments will have to respect it.

Ms ELLIS translating.

Mr BAILEY: The constitution that we are talking about could be very bad for you people or it could be very good. It could protect your laws and the things that you want. If we are to have a constitution, and that is what the government and the ALP are saying, we need to draw up a law to protect laws. You must make sure that it protects your laws and that it is good. It could be very bad and that is why it is so important that all the people have their say.

Ms ELLIS translating.

People speaking in Aboriginal language.

Mr BAILEY: When the white people first came, they ignored Aboriginal law. It was not that Aboriginal law was not there, but white people took no notice. Many of the laws that white people have made in Australia have ignored black people. We are saying that, in the Northern Territory, there will be a very important law that will control laws. It is important that it protects Aboriginal law.

Ms ELLIS translating.

People speaking in Aboriginal language.

UNIDENTIFIED PERSON: Our law was always here.

Mr HATTON: That is true. It was always strong.

People speaking in Aboriginal language.

Mr HATTON: You are asking a very important question. This law should recognise Aboriginal law. For the first time in Australia, white man's law can say that Aboriginal law has always been there and must be respected. That is the strength of this law. When Captain Cook came here, he had a big head and was not listening to anyone. He did silly things. He did not know about Aboriginal law. White people have to learn and understand. This law is part of making sure that, in the Northern Territory, white people will always have to respect Aboriginal law. You must help us understand Aboriginal law.

People speaking in Aboriginal language.

Mr DOOLAN: I want to ask one question. When this constitution is coming in, it must be coming from someone else like half caste people - like Charlie Perkins who lived out in Canberra all his life. This is new law here.

Mr HATTON: I am sorry, but it is hard to hear.

Mr DOOLAN: It must be coming out from the half caste people, like Charlie Perkins who has spent all his life in Canberra. That is why this new law is coming out.

Mr HATTON: If I can talk to that, it is true that, year after year, people who do not understand the law have been making rules and talking for people. This time, you can talk for

yourself. The people who know the law will speak, and speak the truth. You must make sure that you write the rules for the future so that the law is always strong. This is a way for you to do it. It is your chance to stand up and say: 'This is the Aboriginal way. This law is okay'.

Mr DOOLAN: He was talking about 200 years ago when Captain Cook came here. I would like to see something good, something that did not happen at that time.

Mr HATTON: 200 years ago?

Mr DOOLAN: Yes. 200 years ago, Captain Cook landed here in Australia. Aboriginal people lived here and this is their land.

Mr HATTON: Yes.

Mr DOOLAN: I want to ask you a question. What do you want now from Aboriginal people? What good things do you need from Aboriginal people?

Mr BAILEY: Now?

Mr DOOLAN: Yes.

Mr BAILEY: What we are saying is that, when Captain Cook came to Australia 200 years ago, he ignored Aboriginal law. The Aboriginal law was there but the white men did not see it. Over the last 200 years, there have been many laws written by white men which ignore or fail to recognise Aboriginal law. As the Territory gains more control over the laws in the Territory, it will need a law to control the other laws. It is an opportunity for the first time in Australia to write into white man's law that Aboriginal law must be recognised. If you tell us how you want it written, we will try to ensure that the right of Aboriginals to their laws is respected. As you have said, in the other states of Australia, Aboriginal law means nothing to the white governments. We are saying that this law, which has not been written yet, can include Aboriginal law.

People speaking in Aboriginal language.

Mr HATTON: Make it strong

Mr DOOLAN: Yes. Make it strong

People speaking in Aboriginal language.

Ms ELLIS speaking in Aboriginal language.

Mr HATTON: Can I ask one question? This law has not been written yet. We do not have this law yet. I think this is really important for you. I want to ask you whether you think it is important and whether you are prepared to work to ensure that this will become a good law for you. Do you want to make this law?

Mr DOOLAN: New law.

Mr HATTON: New law. We are here to help you, but it has to be made by the people of the Northern Territory, by you and by the communities which you represent?

People speaking in Aboriginal language.

Mr HATTON: Do you want to work on this job? Nothing has been written yet. There have been lots of questions, but nothing has been written. Are you prepared to think about this and ensure that this is right for you?

Mr DOOLAN: We do not want to say straight away ...

Mr HATTON: Will you think about it and talk about it within your communities to see whether you want to work on this law? Will you do that?

People speaking in Aboriginal language.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

YUENDUMU — Wednesday 6 June 1990

PRESENT:-

Committee:

Mr Ede (Deputy Chairman)
Mr Setter

Officers assisting the committee:

Mr R Gray (Executive Officer)
Mr H Nelson (Interpreter)

Appearing before the committee:

Rex Granites
Lindsay Turner

NOTE: Edited transcript.

Issued: 11 January 1991.

Mr NELSON speaking in Aboriginal language.

Mr EDE: I am Brian Ede. I am the Deputy Chairman of the committee and I will be saying a few things about what we are doing here today. After that, Rick Setter, who is from the CLP and is another member of the committee, will be saying a few words. We also have our staff with us who will be recording what is said. After we have said a few things, people may wish to ask questions or to say what they think should be done.

Mr NELSON interpreting.

Mr EDE: Many people might know that, when you set up things like the housing association or the Walpiri Media Association or whatever, these are set up under an act of parliament - the Associations Incorporation Act or the Local Government Act or some other act. There is an act of the Northern Territory parliament or the Commonwealth parliament that says that you can set up those organisations. That is how they are all started.

Mr NELSON interpreting.

Mr EDE: When a government starts, it cannot start from nothing. The government in the state of Queensland or the government of Australia or the government of the Northern Territory must have something, such as an act of parliament, that allows it to start.

Mr NELSON interpreting.

Mr EDE: All the state governments, like Queensland, Victoria and South Australia, were started by an act of parliament in England. When England was sending out all the convicts and white fellows were coming from there, the state governments were set up under acts of the parliament in England. The Northern Territory came along later because it used to be run from South Australia. Later, it came under an act in Canberra because, at that time, Canberra was already set up as the boss for all Australia.

Mr NELSON interpreting.

Mr EDE: The government of Australia, the Commonwealth government, has a law which says what it can do. That law is called the Constitution of Australia. The government in England cannot change that law and the government in Canberra cannot change that law. Only the people can change the Constitution of Australia. It can be done only by what is called a referendum. You might remember that, last year, there was a referendum to try to change a little bit of that law. However, the people said no. The people have the right to say yes or no. That law is the boss of the government. The government is not the boss of that law. The people are the boss of that law.

Mr Nelson interpreting.

Mr EDE: We do not have a constitution for the Northern Territory. The Northern Territory goes under a law in Canberra. That Canberra mob can change that at any time. People in the Northern Territory do not have power over what the law is for the Northern Territory government. What we are talking about is how to change that so that the people of the Northern Territory have

the power to say what the powers of the Territory government should be. They should have the power to say what the Northern Territory government should or should not be able to do.

Mr NELSON interpreting.

Mr EDE: All those big laws are in Canberra and we do not know what might happen in Canberra. A different mob may get into power there or some of the mob there might not agree with the way things are run now and want to change them all. We do not have power over that. We have only 1 person who goes to Canberra. We are saying that, if we can start working on a constitution for the Northern Territory on which everybody agrees, we can put in our constitution the things that are really important to the people of the Northern Territory. We would make it so that no matter who is in government - the CLP, the ALP, the Nationals or whoever - they would have to obey that big law, that constitution for the Northern Territory.

Mr NELSON interpreting.

Mr EDE: When they wrote those constitutions everywhere else in Australia, a couple of politicians and lawyers got together in an office and wrote them up. They said: 'We will give ourselves all this power'. We do not think that it should be done that way in the Northern Territory. Therefore, we are going out and talking to the people in order to explain to them what this thing is about. We want to hear the people's own ideas about what are the really important things that should be written into the constitution. If we do it that way, it is the people who are really doing it because it is their ideas that will be going into that constitution.

Mr NELSON interpreting.

Mr EDE: If the people do not set out in their constitution how things have to be and say that they are the only ones who can change it, the government could change it itself. That constitution puts a rope around the government and holds it back. It says: 'You can do all the things that are written in here, but you cannot go too far. If you want to change something or do something that is not in this constitution, you will have to ask the people. The people will have to vote yes or no for that change'.

Mr NELSON interpreting.

Mr EDE: Let us take the example of the Land Rights Act. That is a law of the federal parliament. It could change that at any time. It does not have to ask the people or talk to the people; it could simply change it in Canberra.

Mr NELSON interpreting.

Mr EDE: The Canberra government could give the Land Rights Act to the Northern Territory government and it could then change it in whatever way it wanted. However, if the people say that they want things from the Land Rights Act put in that constitution and they are put in the constitution, the government would not be able to change them. All the people would have to vote on whether they wanted to change them or not.

Mr NELSON interpreting.

Mr EDE: What we have to do is to find out the sorts of things that the people want in the constitution. They might say that they want some parts of the Land Rights Act and some protection for sacred sites put in that constitution. They might want everybody's right to vote in elections written into the constitution. If things like that are put in the constitution, the only way they can be changed is to ask all the people to vote to change them.

Mr NELSON interpreting.

Mr EDE: We are asking the people what they think. We have been out once already. This is our second time and we are going around talking to the Aboriginal communities. We are also talking to the white fellows in the towns about what they want in it. It is important that the Aboriginal people tell us what their ideas are because other people are telling us their ideas too. For example, the mining companies might say that they do not think that things like land rights should be put in the constitution. If the Aboriginal people are not talking out and saying what they want in it and we only hear from the other side, that is the way it might happen. It is very important for people to tell the committee the things that they want to have in the constitution. The people can then see which things that they agree on and which things they do not agree on. If we do not agree, we have to talk more about it until we have something that everybody agrees on.

Mr NELSON interpreting.

Mr EDE: There will be many things in the constitution. We have to talk about things such as whether we should write in the constitution who can vote. Should only people over 18 years be able to vote? Should we say that everyone can vote provided they are not in jail and are not mad? Are we going to say that everybody can stand for parliament? We have to talk about such things and decide what people think should be in there.

Mr NELSON interpreting.

Mr EDE: Last time, we sent out these books. Some people might have had a look at them. We would like people to keep thinking about the things in there because they contain some of the things that we have to talk about. Will the new parliament in the Northern Territory have the same power as the parliaments in Queensland or Western Australia or South Australia, or will it be more or less? How much power will our parliament have.

Mr NELSON interpreting.

Mr EDE: In Canberra, we have the House of Representatives and the Senate. One stands on top of the other. In the Northern Territory at the moment, we have only 1 House in the parliament. Should we have 2 Houses of parliament? That is another thing that we have to think about.

Mr NELSON interpreting.

Mr EDE: There is another thing that we have to think about. Should we have special seats for Aboriginal people in the new parliament? At the moment, Aboriginal people and white people all vote together and decide on who will be elected. In some places, they voted for an Aboriginal person to go to parliament and in other places they voted for a white person to go. Should we leave

it like that or should we have some seats for which only Aboriginal people can vote and some for which only white people can vote?

Mr NELSON interpreting.

Mr EDE: We will have to talk about the Administrator. The Administrator used to be Commodore Johnston and now is Justice Muirhead. What power should he have? Should he be able to sack the government or should he be able to do only what the ministers tell him? Those are things that we have to think about.

Mr NELSON interpreting.

Mr EDE: We have to think about how we set up our whole court system. We must think about whether we should put something in the constitution about local government. Should we put something in the constitution about basic rights such as freedom of speech and that sort of thing?

Mr NELSON interpreting.

Mr EDE: As well as those things, there are special things such as land rights, sacred sites, protection of culture and so on. We have to decide about all of those things. Which ones should we put in the constitution? How can they be changed? How many people would have to vote yes in order for them to be changed?

Mr Nelson interpreting.

Mr EDE: You have those books and we also have some cassette tapes. The tapes are in language so that the people can hear about the ideas and think about them. We have to work out some way of getting the message from the people about what they think.

Mr NELSON interpreting.

Mr EDE: I do not want to keep talking for too long. I will stop there and let Rick say a few words. After that, people can ask questions or perhaps give some of their ideas about what should be put in the constitution or what we should do.

Mr NELSON interpreting.

Mr SETTER: Brian has explained the purpose of our visit very well and I am not going to go over exactly the same ground. However, I will perhaps put it in a slightly different way. For a long time now, we have always had a government in the Northern Territory. There was a time when the federal government in Canberra controlled everything here. However, in 1978, we established a fully-elected Northern Territory government. Brian, myself and other people like Steve Hatton and Wesley Lanhupuy are all members of the Northern Territory government.

Mr NELSON interpreting.

Mr SETTER: As you know, even now the Northern Territory is only a territory. It is not a state. As Brian explained, we have the federal government, state governments like Victoria and

NSW, and the Northern Territory government. However, the Northern Territory government is like a small child. The federal government is like our father and the states are like our adult brothers and sisters.

Mr NELSON interpreting.

Mr SETTER: We say that it is time for the Northern Territory to start growing up and become the same as its brothers and sisters. However, to help us grow up and become an adult, we need some rules. We need what is called a constitution. Once we grow up and have that constitution, it will not matter which government comes into power in the Northern Territory because they will all have to obey the same rules - the constitution.

Mr NELSON interpreting.

Mr SETTER: The problem is how to draw up a constitution. In order to make a constitution, the Northern Territory parliament has established this committee of which Brian, myself and others are members. There are 3 members from the CLP government and 3 members from the Labor Party. We are working together to make that constitution.

Mr NELSON interpreting.

Mr SETTER: How do we make a constitution? Brian and myself and the other members of the committee could sit down and write one. It would be easy because we could look at the constitutions of all the states and the Commonwealth. We could copy the others.

Mr NELSON interpreting.

Mr SETTER: We have decided that that would be no good and that we need to go out and talk to the people. The state and federal constitutions are almost 100 years old. We are writing one today and the circumstances are very different than they were 100 years ago. Our committee has already been working for over 3 years on the constitution. We have written these 2 books. This one is called a discussion paper on a new constitution for the Northern Territory and it contains a whole range of different ideas. We are not fixed on any of those ideas. You should read all the ideas and decide which ones you think are good.

Mr NELSON interpreting.

Mr SETTER: Some 12 months ago, we left many copies of this other book here. It explains what we are trying to do in language that most people can understand.

Mr NELSON interpreting.

Mr SETTER: These books are designed to give you ideas. We are coming to talk to you because we want to hear your ideas. We want you to tell us what you would like put in the new constitution. It is very important that Aboriginal people have the opportunity to have their say and to tell the politicians what they want in the constitution.

Mr NELSON interpreting.

Mr SETTER: It is very important that you think about it, talk about it, have some meetings and tell us what you want put in there. Perhaps you could set up a committee to talk about it. When we come back, you could tell us what you think or you could write to us and tell us what you want in there.

Mr NELSON interpreting.

Mr SETTER: Aboriginal people make up almost 25% of the population of the Northern Territory. It is very important that the issues that are special to you, like land rights and sacred sites, should be talked about. As Brian said, perhaps provision for special seats in parliament for Aboriginal people should be made in the constitution. However, you must talk about it now and tell us fairly soon what your ideas are. We are also talking to white people in Darwin, Tennant Creek, Alice Springs and Katherine. They are telling us what they want and we are listening to them too. We want to hear what you think.

Mr NELSON interpreting.

Mr SETTER: I think I have explained enough about why we are here. What Brian and I have said should have given you some idea of what we are trying to do. You might like to ask us some questions now.

Mr NELSON interpreting.

Mr NELSON: I would like to ask a question. When is the constitution likely to come into place. I believe that it will be in about another 18 months or 2 years. That is just a rumour that I heard.

Mr EDE: At this stage, no time has been set. It might take a couple more years going around getting ideas together. When we have enough ideas, we will write what is called a draft constitution. Even then, people will have different ideas on how it should work. That draft constitution will go to a body which will be called a constitutional convention. We will have to work out who will be on this convention because we do not want it to be just a mob of politicians. We are looking at having something that is bigger than parliament which includes people who are not politicians. These people will have a look at what we have written and argue about it. They will come up with a constitution which they will ask the people to vote on. That one will be put to a referendum of the people. The people will be able to vote yes or no. If they vote yes, we will then ask Canberra if it is okay for that to be our constitution. If the people vote no, we will have to start again. We will have to go through it all again until we come up with something for which the people will vote yes.

Mr SETTER: There is no time limit on it. Naturally, we would like to complete the exercise within a reasonable time. However, it is like climbing stairs and we have to take one step at a time. We cannot move on to the next step until we have finished the one we are on. This step is coming out and talking to the people.

Mr GRANITES: In relation to this proposal for a state constitution for the Northern Territory, if we Aboriginal people, especially the older ones, are to be dealing with these kinds of

things, I think there should be more time available for all the people who do not understand. The government should put some money towards translating these things into language. That would be better because, when politicians come out, the people forget about it as soon as they are gone. If you could provide the money, we could do it ourselves in our own communities. We could work towards these kinds of things.

Mr EDE: At the moment, the Institute of Aboriginal Development is using interpreters to put the same story into different languages. It is being put on tapes which will be sent out to the people. The people will be able to listen to what the whole story is about. In about a month or so, we will begin sending the tapes out to people right across the Northern Territory.

Mr NELSON: Rex referred to our people making this kind of tape here instead of the Institute of Aboriginal Development. The people would know who is talking. Some of the interpreters in Alice Springs do not live out here and are not very well liked by other people. They may not be able to get the message across. If it could be translated here, the people would know who is talking. That is what I think Rex was talking about.

Mr EDE: We would have to go back to the committee to talk about that. You are lucky here because you have the Walpiri Media Association which has equipment. Other communities do not have anything like that. We could speak to the committee about the possibility of finding money to put some more material on those tapes. It would be great if people like Francis here could broadcast something on the television so that people could see their own people talking about it.

Mr NELSON (?): We have television and radio. (Speaks in Aboriginal language).

Mr SETTER: We are also producing a video, but have not yet decided whether it will be in language or in English with subtitles in different Aboriginal languages. When the video is completed, it will be available for telecast by Imparja. I would think that it would also be distributed to the communities so that people can watch it on their own televisions.

Mr NELSON translating.

Mr SETTER: One thing that we would like you to consider is whether you would like to establish your own committee so that you can think about it and talk about it.

Mr NELSON interpreting.

Mr TURNER: I am the Deputy Chairman of the Yuendumu Community Council. This is very short notice. You are saying that there are 18 months to do this?

Mr EDE: No. There is no time limit for the future. We have been going around for about 18 months now.

Mr TURNER: The Northern Territory government should organise someone from the Office of Local Government or the Chief Minister's Department to talk to the council or the community. I do not know whether or not the council has been talking with the community here ... people not turning up from Anningie, Willowra and Mount Allan today points to a lack of communication probably between the Northern Territory government and the community council. In

the near future, the community government council presidents or people like that should meet in town with the government and go through once again what has been said today. They can go back to their communities and tell the people what has been said at that conference and explain it to them.

Mr EDE: Yes. I think that is another way. I believe the people at Willowra and Anningie decided to attend the meeting at Ti Tree when it occurs. They will have their say there. I think that you are probably right and that we might have to bring people together from bigger areas. If, as Rick suggested, there was a committee that covered here and Nyirripi, people could talk generally about these things. They might decide later that they are merely a few people and go to another meeting, perhaps in Alice Springs, which brings together people, say, from the northern part of the Stuart area. There might be another one for the MacDonnell area and so on. They could come together in Alice Springs and talk more about it. People will want to know what other Aboriginal people are talking about so that everyone can share ideas, backwards and forwards.

Mr NELSON: Are there any more questions?

Mr EDE: Perhaps you might like to have a break for about 10 minutes so that you can talk about it among yourselves. People might like to talk about it first before they put it on the tape.

Mr NELSON: Is this the final round of your trip?

Mr EDE: No, it is not the final round. This time, we have not been going to so many of the smaller places. We have been going to the larger places. We might decide that we should go back more often to some places than to others. We have to keep working at it until we are happy that we know what people's ideas are. We do not want to say that we are going to finish this in 1 year. On the other hand, we do not want it to drift on and on with nothing happening because the other people would be doing their thing and the Aboriginal people would miss out.

Mr NELSON interpreting.

Mr NELSON: What I just said is that, when all our people come back from town and excursions, we can have a community discussion on this and follow on from that.

Mr EDE: We can certainly do it that way. Also, if the people want to talk more about it at other times, you can ask Rick, our executive officer, to come down. That is another way of getting the message across.

Mr NELSON interpreting.

Mr NELSON: Dave Woods suggests that, on the Tuesday after the Walpiri sports weekend, the people could get together for a discussion. I believe that you may be available at that time, Brian?

Mr EDE: I am pretty sure that I will be here for the sports weekend. That is not a bad idea because that is the time when everyone comes together.

Mr NELSON: We can get all the Walpiri mob together and have a discussion.

Mr SETTER: We will have to look at our diary and talk to the committee. We will write to you or advise you in some way. I would think that Brian would be here. We will advise you soon whether the other members of the committee will be able to come.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

THREE BORES — Thursday 21 June 1990

PRESENT:-

Committee:

Mr Hatton (Chairman)
Mr Ede (Deputy Chairman)
Mr Bailey
Mr Setter

Officers assisting the committee:

Mr R Gray (Executive Officer)
Mr G Nicholson (Legal Advisor)
Ms M.M. Turner (Interpreter)

Appearing before the committee:

Ray Pula
Albert Morton
Banjo Morton

Others Present:

Alison Hunt
Lindsay Turner

Edited transcript

Issued: 9 January 1991

Mr GRAY: As I said yesterday, this is the committee that I work for, and I want to introduce them to you. You know Steve Hatton. He is the chairman of the committee, and this is Brian Ede. I think a lot of you know Brian Ede already. He is the deputy chairman. This is Rick Setter, who is a member from Darwin, and this is John Bailey who is from Darwin also. We have 2 members from the CLP and 2 from the ALP on the committee.

This man is Graham Nicholson. He is a lawyer and he travels with the committee to help us, and I have Ms Margaret Mary Turner with me here to help us by interpreting. Now we are going to talk about what we said yesterday. The committee will talk and, if you have any questions or if there is anything you want to talk about, then you bring it up. I will leave it at that.

Mr HATTON: Thank you, Rick. Many of you will remember that we were here last year when we talked about a constitution. We had a really good meeting, just over there, and we went through a lot of things. We were talking about what we are trying to do and how governments are set up in Australia in the white man's way. Governments can do pretty well anything. They can make all sorts of laws and there are all sorts of different governments. There is the government in Canberra for all of Australia, and there is a government in Darwin for the Northern Territory, and they mix up different jobs for the same people. It is the same in Queensland, in Western Australia and in South Australia. It is the same everywhere. There is the government for the whole of Australia and then a government for each of the others - the Northern Territory, Queensland, Western Australia and so on. Everywhere there are 2 governments, and they mix up the jobs between them.

Ms TURNER interpreting.

Mr HATTON: I will go through that again a bit more slowly. Last year, when we were here, we were talking about a constitution and about all the different sorts of governments in Australia. For example, in Canberra there is 1 government, for all of Australia and, in Darwin, there is 1 which is just for the Northern Territory.

Ms TURNER interpreting.

Mr HATTON: Each government has a different job and they mix together, so some laws are made by the Canberra government and some laws are made by the Darwin government.

Ms TURNER interpreting.

Mr HATTON: So you have to work out which laws are made by the Canberra government and which laws are made by the government in Darwin?

Ms TURNER interpreting.

Mr HATTON: The laws that the Canberra government is allowed to make are written down in a special law and that law belongs to the people.

Ms TURNER interpreting.

Mr HATTON: That special law is called 'the Constitution' for all of Australia.

Ms TURNER interpreting.

Mr HATTON: Each of the states, like Queensland and South Australia, also has a constitution that says what their governments are allowed to do.

Ms TURNER interpreting.

Mr HATTON: And each of those constitutions gives special power to the government in each state and they say what the states are allowed to do, and the federal Constitution says what the federal government is allowed to do.

Ms TURNER interpreting.

Mr HATTON: When these constitution laws were written, for the whole of Australia and for each of the states, things were written into those laws, like the rights for people. That might be the right for you to have your own religion, it might be the right to speak out or the right to vote. Those are special rights and these special laws say that the governments are not allowed to touch them.

Ms TURNER interpreting.

Mr HATTON: Those laws were made in Australia because people said that they could not let the government do just anything it wanted to do because some things are too important and too strong and no government should be allowed to change them or to take away certain rights from the people. So, to protect the people from the government, they made this law which is called a constitution.

Ms TURNER interpreting.

Mr HATTON: That is how the people of Australia make sure that the government cannot take away their rights; they protect them in their constitution.

Ms TURNER interpreting.

Mr HATTON: I would like to tell you about the history of how white man's the governments came together in Australia.

Ms TURNER interpreting.

Mr HATTON: Way back 200 years ago, when the white men first came here, they went to different places in Australia, Sydney in New South Wales, Melbourne in Victoria and to Queensland.

Ms TURNER interpreting.

Mr HATTON: When they got there, they set up their own governments. In New South Wales, they had their own government, in Victoria, they had their own government, and in Queensland, Western Australia and South Australia they had their own governments.

Ms TURNER interpreting.

Mr HATTON: Because of that, they were like different countries, just as England and France are different countries. They were not together as one country. They were separate.

Ms TURNER interpreting.

Mr HATTON: That would cause a lot of trouble because, if someone wanted to go from Sydney to Melbourne, it would be like travelling from one country to another. They would have to have a passport and they would have to pay taxes and customs duty just to go from one place to another in the same country. It would be crazy.

Ms TURNER interpreting.

Mr HATTON: They even each had their own army. New South Wales had its own army. Victoria had its own army and Western Australia had its own army. They were all separate.

Ms TURNER interpreting.

Mr HATTON: Finally, they decided that it was silly because they all lived in the same country. So, they started to meet together and talk about how they could come together as one country.

Ms TURNER interpreting.

Mr HATTON: They held meetings and they talked together over years and years about how they might make one government for all of Australia.

Ms TURNER interpreting.

Mr HATTON: They did that because they decided that they must meet and talk about making a constitution, this special law to make a government for all of Australia.

Ms TURNER interpreting.

Mr HATTON: In that constitution, they put down what sort of powers the government should have and the sort of laws it is allowed to make.

Ms TURNER interpreting.

Mr HATTON: They also worked out that they would have a Senate and a House of Representatives. You know that Warren Snowdon is a member of the House of Representatives and Bob Collins and Grant Tambling are in the Senate.

Ms TURNER interpreting.

Mr HATTON: They are different, but they are both part of the federal government. Together, the House of Representatives and the Senate make up the federal parliament.

Ms TURNER interpreting.

Mr HATTON: Those people wrote down all those rules and all those rights in this book and this book is the Australian Constitution. That is a special law and it belongs to the people of Australia. The government cannot change that.

Ms TURNER interpreting.

Mr HATTON: You will remember that, 2 years ago, the federal government said that it wanted to make some changes to the Australian Constitution. It went to the people and told them to vote yes or no in answer to some questions in a referendum. Do you remember that there was a special vote about 2 years ago?

Ms TURNER interpreting.

Mr HATTON: Do you remember that?

Ms TURNER interpreting.

Mr HATTON: You were asked to say yes or no.

Ms TURNER interpreting.

Mr HATTON: That was because the federal government wanted to change this Constitution.

Ms TURNER interpreting.

Mr HATTON: The people said 'No, do not touch it'. So, it stayed the same, because that is a strong law. Only the people can change that law, not the government.

Ms TURNER interpreting.

Mr HATTON: Do you understand what I am saying?

Ms TURNER interpreting.

Mr HATTON: In that special law, the Constitution, there are some funny words. It talks about the 'citizens of the states'. The states, of course, are Queensland, New South Wales, Queensland, Victoria, Western Australia, South Australia and Tasmania. So the citizens of the states are the people from those states.

Ms TURNER interpreting.

Mr HATTON: Each of those states has special rights and special protection in this Constitution. The rights of the people living in those states are protected in the Constitution.

Now, here is a problem. The Northern Territory is not a state and it is not protected by this Constitution. That is a problem for us because we are not citizens of a state and so the people of

the Northern Territory do not have their rights protected. Your rights are not protected by this Constitution.

Ms TURNER interpreting.

Mr HATTON: Do you understand that? We are half way there but we are not quite there. We have a government in Darwin, but that government is not protected by this Constitution and the people in the Northern Territory are not protected by the Constitution.

Ms TURNER interpreting.

Mr HATTON: People like ourselves are asking why the Northern Territory people should not have equal rights like everyone else in Australia.

Ms TURNER interpreting.

Mr HATTON: We think that Northern Territory people like yourselves should have the same rights as anyone who lives in New South Wales or South Australia.

Ms TURNER interpreting.

Mr HATTON: We are all Australians and we should be treated the same. We should be equal but, for that to happen, this book - the Constitution - has to include the Northern Territory as a state. That is what we have to make happen and until we do that, we cannot have the same rights.

Ms TURNER interpreting.

Mr HATTON: The Northern Territory has to be included in that law - the Constitution. But, before we can do that and get those rights, the people of the Northern Territory - and that includes you - have to say how they want this Northern Territory to be run. You have to say how you want this Northern Territory government to be run.

Ms TURNER interpreting.

Mr HATTON: Has anybody ever asked you before what sort of rights the Northern Territory government should protect for the people?

Ms TURNER interpreting.

Mr HATTON: Have you ever been asked that question before?

Ms TURNER interpreting.

People replying.

Ms TURNER: No.

Mr HATTON: No - and did anyone ask you how we should make a government in the Northern Territory, how to go about electing a government? Did anybody ask you what sort of

things the government should be allowed to do and, even more importantly, what sort of things the government should not be allowed to do? There are some things that no government should be allowed to touch. There are some rights that governments should not be allowed to take away.

Ms TURNER interpreting.

Mr HATTON: But we have not got those rules because we do not have a Northern Territory constitution through which the people have made those laws and put a censure on the government.

Ms TURNER interpreting.

Mr HATTON: Our committee is travelling around talking to the people and saying that we want to start working and talking to each other about how we want the Northern Territory to be run in the future, how we want the Northern Territory to go, and we want to talk about the kind of rules you want to make over the government.

Ms TURNER interpreting.

Mr HATTON: It is really important for you to make sure you have your say in this, and I will tell you another story to explain why it is so important for you to have your say.

Ms TURNER interpreting.

Mr HATTON: This story is about all those states in Australia when they made their governments and they wrote their constitutions. When they did that, they did not go out and ask the people what they wanted. The lawyers and the politicians just locked themselves in a room and they wrote out those constitutions themselves.

Ms TURNER interpreting.

Mr HATTON: For instance, no one went and asked the Aboriginal people what was important for them, and they did not put anything in those constitutions to protect some of the rights of Aboriginal people.

Ms TURNER interpreting.

Mr HATTON: You can see what happened to the Aboriginal people in New South Wales and Queensland. They lost a lot of their law, and they lost a lot of their language and their culture. A lot of it got lost, because there was no protection given to it.

Ms TURNER interpreting.

Mr HATTON: The law is still strong in the Northern Territory and culture is still strong in the Northern Territory. We think that, in writing up this constitution law, you have to make sure that it will be good for Aboriginal people, for your people. You want to make sure that there is protection for those things that are really important to you.

Ms TURNER interpreting.

Mr HATTON: We are coming to you to say to you please start looking at this. Do not leave it to the lawyers and the politicians and do not leave it up to those white people in Darwin and Alice Springs. You have to have your say in this too.

Ms TURNER interpreting.

Mr HATTON: We have all got to work together on this for all the people in the Northern Territory to make a good place for our grandchildren.

Ms TURNER interpreting.

Mr HATTON: That is what we have come here for. We have come to explain that this is so important that you must be part of it. This is so important that you should not leave it for some other mob to do because the other mob will keep working on it. You have to be involved, you have to be there. We need to get something going where people here can sit down, work through it and talk about things and say what you think should go in that constitution law.

Ms TURNER interpreting.

Mr HATTON: Do you agree with that?

Ms TURNER interpreting.

Aboriginal people responding in agreement.

Mr HATTON: Good. There is one more thing I must tell you.

Ms TURNER interpreting

Mr HATTON: It is about the way the people of the Northern Territory have to go to make this law, what they have to do.

Ms TURNER interpreting.

Mr HATTON: It has to be done this way so that you can make sure that your interests will be looked after properly. We must make sure that you understand what is going on and how we will go about making this law.

Ms TURNER interpreting.

Mr HATTON: Right. In the first stage, we are travelling around now, talking to people and explaining what this constitution is about, as I have been doing here today.

Ms TURNER interpreting

Mr HATTON: Then we want to try to encourage the people in your community to meet together and to look at all the questions, because these are important. You need to think through what you want. Some communities have set up a committee to write up people's ideas in a submission. You may want to do that too.

Ms TURNER interpreting.

Mr HATTON: Our committee wants to go around and listen to what the people are saying or to get written submissions on what people are thinking.

Ms TURNER interpreting

Mr HATTON: When we get in those ideas from all over, we will have to sit down and start to write up something that has in it what we think the people are saying. We will call that a draft constitution. That is step 2.

Ms TURNER interpreting.

Mr HATTON: That will have in it just what we think people are saying. We will try very hard with that. We may not get it right, but we will hope that we do. We will be trying.

Ms TURNER interpreting

Mr HATTON: For step 3, we have to form a special committee of representatives of the people from all over the Northern Territory - from Darwin, from here, from all over. That will be a special committee made up of representative people. People who you trust to speak for you.

Ms TURNER interpreting.

Mr HATTON: That committee has a special name too. It is called a 'Constitutional Convention'.

Ms TURNER interpreting

Mr HATTON: That committee's job will be to pick up the draft constitution that my committee writes to see if we have got it right or if it needs to be changed a bit more.

Ms TURNER interpreting.

Mr HATTON: When those people have done that job and have gone through this draft constitution, then they will say that they think that it says what the people want it to say. Then, as step 4, we will take that back to the people and ask them to vote on it - to say yes, if they want it that way, or to say no if they want it changed. If they say no, then the committee will go back and start work on it again.

Ms TURNER interpreting.

Mr HATTON: That way we will all make a strong law. It will be a strong law that belongs to the people because it will say what the people are saying. It will be a law that stays like that, that only the people can change, and it will sit over the top of the Northern Territory government.

Ms TURNER interpreting.

Mr HATTON: In white man's law, that is the closest we come to Aboriginal law. Aboriginal law never changes, and that constitution law is the closest we get to it in white man's law.

Ms TURNER interpreting.

I just said about the grandfathers' law. It is so strong that we cannot change it for someone. And I explained that this is the only thing that the Europeans have which is getting as close as that.

Mr HATTON: All the people agreeing together is the only way it can be changed. The government cannot touch it.

Ms TURNER interpreting.

Mr HATTON: Right. Now, this job will not be an easy one and I reckon that, when the people are working to make this law, they will have a lot of arguments. Do you think those people in Alice Springs will agree with everything you say? You will have to talk it out, though. You will have to keep working and working because, if we get this one right, we will start to get the people moving together down the same road, with respect for each other.

Ms TURNER interpreting.

Mr HATTON: When we make this law and we get this constitution, then we will begin talking with the Canberra government about perhaps including the Northern Territory in the federal Constitution so that we can have equal rights for everyone, as do other Australians. But we have to do this job first and we have to do the job properly. We must take our time over it and make a good law for the future.

Ms TURNER interpreting.

Mr HATTON: All right. I have talked enough now. Brian Ede wants to speak to you, but I thank you for listening to me.

Mr EDE: I just got this from the office. It is the Urapuntja Council's constitution. You mob have a constitution now for this area, for how you are working at running the council. The boss for this constitution is inside the councils and associations law, run by the Canberra government. They can tell you about how you can change this constitution and what has to be in it and what cannot be in it. You can ask them, but you are not boss for it. The real boss for it is the federal government, in Canberra.

Ms TURNER interpreting.

Mr EDE: Everybody is talking about changing this constitution, perhaps by breaking it up and going in 2 ways, one up that way and another down this way.

Ms TURNER interpreting.

Mr EDE: If a lawyer helps you mob to write up another one, so that this constitution goes that way and the new one goes another way, when that is written it has to go to Canberra for the Canberra mob to say if it is all right or not.

Ms TURNER interpreting.

Mr EDE: This constitution here says what the Urapuntja Council can do. Written down here are all the things that the council can do.

Ms TURNER interpreting.

Mr EDE: It says here that the Urapuntja Council has to help Aboriginal people in communities inside all the area of the council.

Ms TURNER interpreting.

Mr EDE: The council has to help people to get some business going so they can get some money. The council has to look after the money and all that sort of thing. Work in the health service, that is another one for the council.

Ms TURNER interpreting.

Mr EDE: The council has to work with the Central Land Council to get this land. All those things are in your constitution. Those are all things that the Urapuntja Council can do.

The Northern Territory government has not got a constitution.

Ms TURNER interpreting.

Mr EDE: What we are going to do is try to think of all those things that we want the Northern Territory government to be able to do. Now, we just operate under the law from Canberra.

Ms TURNER interpreting.

Mr EDE: This lawyer bloke just gave me copy of it. The Self-Government Act, they call it.

Ms TURNER interpreting.

Mr EDE: That law was written by that mob down in Canberra. They sat in an office down there and they wrote that Self-Government Act. They set that up and said that we could have a government up here and do things that Canberra says that we can do, but we cannot do anything that Canberra says we cannot do.

Ms TURNER interpreting.

Mr EDE: We do not want to do things that way for this constitution for the Northern Territory. That is why we have come to ask you mob what sort of things you think that we should put in that constitution about the things that the government can do and the things it cannot do.

Ms TURNER interpreting.

Mr EDE: You can see the same thing in this. It does not just have a list of all the things that you can do. It tells about what your power is. Perhaps it tells who are the members of the Urapuntja Council.

Ms TURNER interpreting.

Mr EDE: The Urapuntja Council constitution says how it can be changed. Those are things that we have to think about for a constitution for the Northern Territory too.

Ms TURNER interpreting.

Mr EDE: Do you just want a mob of people to sit down together in Darwin or in Canberra or something and work out how they want this constitution to be or for them to change it how they like? Or, are you you going to say no way, that all the people have to be in on this and then they all have to vote on it?

Ms TURNER interpreting.

Mr EDE: You can see that this is like the way you made your own constitution containing the rules of the Urapuntja Council. You got together and worked them up and wrote them down, years and years ago.

Ms TURNER interpreting.

Mr EDE: I remember when we started this up. We had meetings under that old shelter over there. We came up and I came out with Neville Perkins and all that mob. We came out and Fred Chaney came and we had a meeting over there.

Ms TURNER interpreting.

Mr EDE: Now, some people are talking about changing those rules. Everybody will be talking about it and working on it so you mob can make up your own minds about how you want to change them.

Ms TURNER interpreting.

Mr EDE: You will be thinking about what power you will give the new one, if you decide to go ahead with it. What power will it have, what will it be able to do? What can't it do? Is it to be strong or just a little weak one?

Ms TURNER interpreting.

Mr EDE: In the same way, when we are talking as we did the last time we were here and now about what we will want in that Northern Territory constitution, we have to think what are the things that we want to put in there, the things that we want to make strong.

Ms TURNER interpreting.

Mr EDE: I think I should stop talking now and let everybody else have a talk, ask questions or whatever. Does someone want to speak about something? It would be a good idea though if, when we are talking, they get the microphone so they can talk into it like that, and say their name first. That would be good because we are doing again what we did last time. That lady over there is getting what is being said on the tape. When the committee goes back, that will all be written down so that, later, you can check what was said. We will send them back and people can see what everybody said. The people can talk English or talk language, whatever they like.

Ms TURNER interpreting.

I was just speaking to them about this paper or book on this. They think it is rather hard to understand.

Mr HATTON: Perhaps we may be able to help with that. We have been talking about getting another book printed which will be easier to read than this one. If you want to, we can organise for Rick Gray, perhaps, this man beside me who you were talking to yesterday, to come out here so that you can sit down, take your time and go through it with him, bit by bit. Then he can explain anything you want to have explained, bit by bit.

Ms TURNER interpreting.

Mr EDE: Another thing we are doing is preparing some cassette tapes. I guess a lot of people have tape recorders. Already, we have finished an easy English cassette, but IAD is now working on putting some cassette tapes together in language, so that people can sit down and listen to them and hear what is being said about all this.

Ms TURNER interpreting.

Mr EDE: There will be 3cassettes in this one and they will tell a story about what a constitution is and how the government works. Then it will say about the different things we have to look at in the government, inside the courts and the job for the Administrator. All that sort of thing will be explained on those tapes, in language.

Ms TURNER interpreting.

Mr HATTON: Then they will be in little questions, not big questions, and you can work through each little question, bit by bit.

Ms TURNER interpreting.

Mr HATTON: When you put together all the answers to those questions, you can start to think what you want to say.

Ms TURNER interpreting.

Mr HATTON: With those cassettes too, if you want it, we can still get someone to come back and sit down and talk with you, to explain more.

Ms TURNER speaking Aboriginal language. There is someone who is going to speak. I have told them to speak in language or English.

Mr HATTON: Don't worry. If you want to talk language, that is fine. We can interpret it back so we can talk.

Ms TURNER interpreting.

The other gentleman was saying that they want to have a talk first and then let us know if they want to speak. The men there want to talk together.

Mr HATTON: We will go away for half-an-hour or so and have some lunch whilst you have a talk. Is that all right?

Ms TURNER: Yes, they will go now.

A break in proceedings.

Mr Ray PULA: We have been talking now about how we will try to help make this law, for a constitution. The Northern Territory has some cultures. They have been making the wrong law. They should make this law. That is why the people want it. All the people in this Utopia area and right around Ammaroo they want to make this law now. They want to make this law and we will put up with the constitution. White law with the tribal law and what that is saying is that they got to put up with the one law. We cannot make a change to it. We are not trying to change this one, that is why we are under one law. That is why we want it. This one talking now is Ray Pula (??).

Mr A. MORTON: My name is Albert Morton. I will try to explain what I want to you. There are 15 Aboriginal communities in this area, at Utopia, Ammaroo and all around. We are trying to put the application (indecipherable) constitution (indecipherable) holders will (indecipherable) our culture. But there is no (indecipherable) in Australia (indecipherable) this constitution. They made that without Aborigines. They never came to the Aborigines in the Northern Territory (indecipherable) speaking about it as a constitution. But we want them now and the Northern Territory can have a constitution for our Aboriginal people in the Northern Territory. We want a strong law and we want our culture. We have all been frightened for our grandfathers' cultures, and we are still frightened. We want a constitution and that is why I put it in now for me. Right - that is all I can say.

If there is a constitution about the Northern Territory, then I know that Bob Hawke is going to hold this constitution for the whole state in this grandfathers' law. Bob Hawke and we in the Northern Territory can hold this constitution down hard. We have been trying that way to hold it but the Northern Territory has been sleeping all the time. They did not have a constitution. But we want it now. Put it in that way.

Mr HATTON: Okay. Do any of the women there want to talk?

People talking in Aboriginal language.

Ray PULA speaking in Aboriginal language.

Mr A. MORTON: Now, one more I didn't plan. In the Northern Territory state, Canberra can hold this constitution for our grandfathers in the Northern Territory and we will pass that on to Canberra to make a constitution for us. That is all.

Mr HATTON: For the constitution here, the people need to make sure that they say what is in that constitution. Do you want to get some sort of representatives to start to work to put down what you think should be in that law, in that constitution?

Ms TURNER interpreting. I just put in what was said. One of the blokes was talking just now about some of those things, if they have a representative, a person like (speaking in Aboriginal language).

People speaking in Aboriginal language.

Ms TURNER speaking in Aboriginal language. The blokes talk (indecipherable) and that voice can be one.

People speaking in Aboriginal language.

Mr PULA: Well this one here we are talking now, we want to make it with the committee in Darwin now. That is why we want it now.

Mr HATTON: You want this committee now?

Mr PULA: Yes

Mr HATTON: Do you want to say who should be on that committee?

People talking together in Aboriginal language.

Mr PULA: Banjo Morton will be on this committee. I am putting him now, today - Banjo Morton.

Mr HATTON: Banjo Morton?

Mr Banjo MORTON: From Ammaroo (indecipherable). I will be on the committee.

Mr PULA: I am calling that committee now as Roy Loy (?). I will be the one, I think.

People talking in Aboriginal language.

Mr HATTON: Folks, may I talk for a minute? Perhaps we should work out what job this committee will have to do. Do you agree with that? This committee should be here perhaps, and we can get the information to you here and then perhaps get Rick Gray to come here to talk and to work through all that information and make suggestions for the community to talk about. Then the community can say that that is what they think and put that in a submission to the parliament. Would that be all right?

You know that that Pitjantjatjara mob may have different ideas to yours, so you will have to start swapping and switching information and work it up.

Ms TURNER speaking in Aboriginal language. The ladies want to talk about this. They just want to let the gentlemen know.

Ladies talking in Aboriginal language.

Ms TURNER talking in Aboriginal language. They want to really look at this book and decide what is said in it. That is what the ladies say.

Speaking in Aboriginal language.

Mr PULA speaking in Aboriginal language.

Ms TURNER: That is good is what they are saying. They said that they do not really know what is in this book.

Mr HATTON: Please remember that we also have those cassette tapes and they will be coming out to help explain what is in that book.

Ms TURNER speaking in Aboriginal language.

I just said that Josie will probably be doing this translation for the (?) people.

Mr HATTON: Remember as well that this book is just talking about different ideas about the sort of things that go into a constitution. You can think for yourselves what should go in a constitution and how you want to protect your law in it. This is just to help with some ideas of different things to think about.

There is other stuff too. Now, this book is a bigger one, but perhaps someone can come and talk about the sort of things in it and different ideas. It may help to think about it this way or maybe that way, just thinking about different ways, so people can talk about it.

Ms TURNER interpreting.

Mr HATTON: We have a lot of information that will provide some ideas for people to think about and, as I say, perhaps someone can come here and sit down with your committee and talk about those ideas. Then you can go back to the community and talk about that and find out what you want.

Ms TURNER interpreting.

Mr HATTON: How many people will we have on this committee?

Ms TURNER interpreting.

Person speaking in Aboriginal language.

Ms TURNER: They said 2 persons.

Mr HATTON: 2 persons? On the men's side?

Ms TURNER speaking Aboriginal language. Yes. Speaking in Aboriginal language.

Mr A. MORTON: Now, we'll have government making this constitution (inaudible). Different Aborigines have lost their culture. That is why we are going to make this law. People in South Australia, Western Australia and in Brisbane in Queensland they have (?) lost their culture. That is why we have to make this constitution for the Northern Territory. That is why we want it. It has been pretty hard work so we have been carrying and carrying that law, but now we want to make a constitution. That is all I can say. I am Albert Morton.

Mr EDE: The things that everybody is saying are being taken on the tape there and will be written up so that we have it as a submission, as we call it, from people here. People here are saying what they want, that the most important thing for people here is that the culture law is recognised in that constitution. That it is made strong in that constitution so that cultural recognition is in that. That is what we are putting up from this side.

Now, we will have people coming back to talk about other things apart from culture, about other powers and other things that you might want to have in that constitution as well. They can come back here and talk to the people on the committee. The people on the committee can talk to everybody else and have a meeting here so that people can talk about what they want, and then someone - it might be the fellow over there, Rick Gray - might come out and talk with you and put down those things.

Later on, when it is all written up, it will all come back again and you will have to look and see that you are happy about the cultural recognition ones that are in there. If you are happy with that way and happy with everything else that is in there, you can say 'yes' to it. If you are not happy, you will say 'No. That other mob, they changed their story up there. They did not put them in right'. Then you say 'no'. Do you understand?

Ms TURNER interpreting.

Ms Alison HUNT speaking in Aboriginal language.

People speaking in Aboriginal language

Ms HUNT speaking in Aboriginal language.

I will just explain what I was saying there. I explained in detail how important it is for Aboriginal traditional people to have a say in this constitution. Many times stuff has been written on behalf of Aboriginal people without those Aboriginal people being consulted. Now, we have time and opportunity for Aboriginal people to have a say in what goes in the constitution. Our law does not change every 5 minutes but, while we are talking here, they could be changing the law in Canberra, or wherever it is. But Aboriginal law never changes and it never will change. It just gets handed down.

It is important for governments and everybody to recognise that, and it is important that we have a say in the constitution so that the same law as Aboriginal law is there and is strong there for governments to recognise that law as part of the constitution, written in there by Aboriginal people, not by non-Aboriginal people. Thank you.

Ms TURNER speaking in Aboriginal language.

Mr PULA: Brian Ede, you get happy with this one?

Mr EDE: I am happy that we are taking our first step down that road, but this is still only the first step. We are just starting to walk down that way. We are walking down that right road, but we have got to watch out that we do not get mixed up and go the wrong way as we are going down it. If we go the wrong way, then all our grandchildren and everybody will turn around and rubbish us later on and say: 'You mob, you did not look after it when we asked you to'. We have to keep our eyes open and keep looking for the way we go as we work down this one.

Ms TURNER interpreting

Mr HATTON: Does anyone else want to say anything more?

Ms TURNER interpreting.

Mr PULA: We talk because we are trying to get that airstrip and that clinic over there (Aboriginal language). We were talking about it last year, maybe 2 or 3 years now.

Mr EDE: I will just explain this. You are talking about changing that airstrip, and putting it down near the clinic?

Mr PULA: Yes.

Mr EDE: Yes. That is a big problem. It is really hard where it is because, as everybody knows, it is an hour's drive from the clinic to the airstrip. If someone is sick at the clinic or if there is an accident, the doctor sees them and he rings up and asks that they send the flying doctor. But it takes an hour to drive down on that rough road to the airstrip, and people are really frightened that someone will pass away on the way there.

Mr HATTON: When we finish this meeting about a constitution, I will put my Health Minister's hat on and we will sit down and talk about that airstrip and the clinic? Is that all right? We will do it straight after this meeting.

Does anybody want to talk any more about the constitution. Is there anything more that any people want to say?

Mr PULA: Talking about this one, this constitution, when we are going to make it, we can still talk about this one to it might be a son or a daughter. We can still talk about this one and we can tell them that they have to go with that business with our culture. They have got to see it in this one here and take what they have got to work on and things like that. They can still see it in this law here.

This one here is a European law and still they can see in this our law.

A Person: Two - European and Aboriginal.

Mr HATTON: Yes, two-way. We have to find some way for the European law and Aboriginal law to go side by side. We have to do a lot of talking about that, haven't we?

Right, have we finished talking about this constitution for now?

A Person: Yes.

Mr HATTON: All right, thank you. Now I am the Health Minister and we will talk about this airstrip.

Ms TURNER speaking Aboriginal language.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

ALICE SPRINGS — Thursday 21 June 1990

PRESENT:-

Committee:

Mr Hatton (Chairman)
Mr Bailey (Deputy Chairman)
Mr Ede
Mr Setter

Officers assisting the committee:

Mr R Gray (Executive Officer)
Mr G Nicholson (Legal Adviser)

Appearing before the committee:

Mr Roger Watters
Mr Denis Collins
Ms Barbara Curr
Mr Badius Goldberg
Mr Dave Johannsen

Edited transcript

Issued: 11 January 1991.

Mr HATTON: Thank you, ladies and gentleman. It is pleasing to see that so many people have turned up for this meeting and it is particularly pleasing to see that the Alice Springs Council of Civil Liberties has come forward again for the meeting. They were particularly concerned last year to be present for these particular conferences.

I declare this meeting formally open and thank you for coming along. We are aware that there is one gentleman who wishes particularly to make a specific submission and I will invite him to do that shortly. For the purposes of the record, I would like to open by saying that this is part of the ongoing process of our committee moving around the community. We are seeking to bring an understanding and awareness of the importance of the development of a constitution for the Northern Territory to the community as a prelude to the movement towards statehood. That will enable us to set up the structures that would enable the Northern Territory then to move effectively towards arguing the case for the Northern Territory to become a state and, through that process, to develop the constitutional rights that go with being a state.

I repeat briefly, for the purposes of the record and those present that, of itself, the development of a constitution is not a process of working through the transfer of powers or the balance of powers between the Commonwealth and the Northern Territory. That argument is dealt with through the process of the transfer of powers for full self-government and it is also dealt with through the process of the constitutional shift to become a state, where issues of representation and specific powers are dealt with.

A constitution for the Northern Territory is a process that sets out the basic structures of government, that is, the structures of the parliamentary process, the legislature, the structures of the judiciary, the court system, and the balance between the courts and the parliament. It develops the balance between a governor, the parliament and the courts. It is also a process whereby the people set and entrench rights that they believe should be entrenched and which they believe that no government should ever be able to interfere with. That could involve such things as the right to vote, the right to freedom of speech, or the right to freedom to exercise a religion of your choice. It applies to those things that the community believes no government should have the power to interfere with.

A constitution is not needed in order to form a government or to form a state. The absence of a constitution merely leaves all power in the hands of the parliament. The constitution is a step whereby the people put limits on the power of government and, through that one law, they can control and direct the way in which government is carried out. In our system of government, the constitutional democracies say that that is the process whereby, finally, people have a dominance over the government as a democratic structure. I repeat that we do not have to have a constitution but, for the reasons I have just explained, we believe that it is important that we should have a constitution.

It is also important, in the inevitable move - irrespective of its timing - towards statehood, that a constitution be completed prior to the granting of statehood. The reason for that is that particular provisions of the Australian Constitution state that, where a constitution is in existence at the time of the creation of statehood, the Commonwealth cannot amend that constitution unilaterally. In other words, the power to amend such a constitution constitutionally rests clearly with that state. There is legal opinion that says that, if the constitution came into existence after the grant of

statehood, it might be that the Commonwealth government would have the power to change unilaterally such a constitution. We believe that that would be contrary to the interests of the people of the Territory, and that a Northern Territory constitution should be very much the property of the Northern Territory people and the Northern Territory people only.

Thus we are working now to try to raise awareness and to encourage the involvement of people in the development of that constitution so that we can use the time available to us now to ensure that we set down a path for the future direction of the Northern Territory that we and future generations can be proud of.

By their very nature, constitutions are very stable documents. They change very, very rarely and, if they do change, it is only in very minor part and I think one could take it as read that the only way a modern constitution would be amended would be by referendum of the people, and the people are very conservative when it comes to changing constitutions. We have seen that many times with the Australian Constitution. Therefore, it is incumbent on us to try to get it right, or as right as is physically possible, the first time. We should use the time available and involve the community as much as possible in that process to work through the many competing demands and interests in the Territory to come up with a document that the broad community can feel comfortable with and satisfied that we have set in train a path for the future society of the Northern Territory.

There is no doubt that a constitution and its structure will guide the nature of the future society of the Northern Territory. It is the foundation stone of society in a modern democracy. Over time, every nation shuffles itself into a pattern of behaviour and often it is nudged into that pattern of behaviour by the way in which its constitution is structured.

That is the challenge we have in front of us. It is a challenge to set a path for the future of the Northern Territory and it is an exciting opportunity for our generation to do something that will never happen again in this country. This is the final piece in the jigsaw puzzle that will complete the federation of Australia, and it is the first time that the people are being asked to be involved actively in the writing of a constitution. If we get it right, future generations will look back on this generation with pride. If we walk away from our duty and our opportunity, we will leave behind for future generations the problems and conflicts that are here now. They will not go away. In fact, they are likely to get worse. We can do something about that if we are prepared to work through the arguments and the difficulties and to work towards developing a set of rules, a set of guidelines for people like that young girl who has just come into the room, and her children. Really, that is who we are working for.

I know that one gentleman is here specifically to make a submission and I will invite him to do so, but our basic message is, have your say. At the moment, our job is to explain, to answer questions and to encourage people to do exactly that: have your say, so that it becomes your constitution, as much as the constitution of other people in the Northern Territory.

Mr EDE: I do not want to go into any great detail. I think that it is disappointing to see the number of people that are here. Possibly we need to have another look at how we develop the process, but I would like to assure you that the numbers here today are not indicative of the numbers that we have been getting at meetings out bush. There, a very strong message has been

coming through about how Aboriginal people see the constitution, their desire to be part of its formulation and their desire to have certain things in that constitution.

As I have been telling people out bush, you have to be involved. You have to have your say, and you have to put your point of view across. For what it is worth, tonight I am saying the same thing to the people of the urban areas. You have to have your say. You have to put your particular point of view across because there are a large number of interests in the Northern Territory, sometimes competing and sometimes parallel, all of which will be attempting to have their say on just how the constitution is drafted and what the balances are within it. It is for everybody to have their go and to have their say to see what exactly we come up with in the end.

Mr HATTON: Are there any general questions anyone would like to ask before I invite Mr Watters to come forward? It seems that there are no questions, so I invite Roger Watters to come forward.

Mr WATTERS: My name is Roger Watters. I am the newly appointed Manager Southern Region for the Department of Mines and Energy which effectively makes me a mini-secretary of the department.

I am not sure whether I am doing the right thing by being here to talk about some of these things because you mentioned that you were not really interested in the transfer of powers and matters like that, but some of the things that I have to say will involve those areas.

Mr HATTON: We are not excluding that, Roger. I just wanted to make it clear that a constitution will control the Northern Territory government and its relationship with Northern Territory people, and that is an important point.

Mr WATTERS: Right. There are things in what I have to say that will bring out some of these potential conflicts and things that need to be addressed and resolved before the next generation comes along and takes power.

Some of the things that I have to say are departmental policy but much of it comes from the heart because I come from 6 generations of miners and explorers and I finished up being a geologist. I was born in Broken Hill, so mining matters are very close to my heart, and I defy anybody in the room to look around and to find something that has not been mined or that has not been fashioned by something that has been mined. Everything yours is mined, whatever it is - the bricks, the plastics, the light ...

Mr HATTON: Or grown.

Mr WATTERS: Or fashioned by something that has been mined. It can be something that has been sawn by a tool, but that tool has to be mined. There is nothing that we have in our society that has not been mined. Mining is just about the most important industry that we have for our civilisation to depend on. If it were cut off overnight, literally billions of people would be dead in the next 12 months, as a result of the northern and southern hemisphere winters.

Mr HATTON: May I clarify something? Are you making this submission on your own behalf?

Mr WATTERS: I have vetted that I can make a submission. I am making this submission because I heard the news item on the radio announcing that there was to be such a meeting. I believe that the mining industry, as such, should be making a submission on behalf of the industry. It should be making this. I have taken it upon myself to do that. This is virtually my own submission, but I am utilising some departmental notes to put the points because they happened ...

Mr HATTON: I am just trying to clarify for the record that you are making this submission formally, on your own behalf, although you may be using material from ...

Mr WATTERS: Yes. I guess you could say I am doing it on my own behalf.

Mr HATTON: I do not mind which way it is. I just want to clarify it for the record.

Mr WATTERS: I am speaking from the heart.

Mr HATTON: Okay.

Mr WATTERS: Anyway, departmentally, there are several points which can be made which should be addressed by a Northern Territory state government, and I will enumerate these without going into each in any great detail.

There is offshore oil and gas exploration and mining, which we now know is more or less sub judice due to the Timor Gap business. There are water matters. Water is a very, very important commodity. In the north we have too much of it and yet, in the south, often we do not have enough. There are geoscientific activities. Some people equate geoscience with digging holes in the ground, but there are many other geoscientific activities which are no more nor less destructive than is a botanist or a biologist collecting scientific data for whatever purposes. We have ownership of minerals, other than uranium. We have ownership of uranium minerals.

We have the land rights question and access to ground for explorers. Indeed, we have had a problem having access to ground just for the scientific gathering of information. We have the question of mining vis-a-vis parks and reserves, and there is another matter which is rather specialist which is the Gove and Groote Eylandt mining agreements. Those would have to be addressed separately.

I could speak about each one of those for many minutes, but I do not want to do that. I want to put that together from these notes and, with departmental input, I will put a written submission to your committee going through all those things that I have here with regard to how I think we should be addressing these matters constitutionally. If what I say happens to be departmental policy and/or Northern Territory government policy, well, that just means we agree with each other. However, I believe that these things will have to be addressed.

There are loopholes in both sides of the argument. Be it, say, Aboriginal land rights vis-a-vis explorers, here are holes in the relevant acts that have to be sorted out or agreed upon. We experienced difficulty in getting a team of geologists in to do 3 days work in a chopper. That was virtually vetoed by somebody, who shall remain nameless, and I cannot see any reason why it was vetoed except out of bloody-mindedness. We do not want that sort of incident to happen again. We do not want Canberra telling us what we can do with this mineral or that. I do not. I think if

you have achieved statehood, I think that the government of the day, whatever its hue, should have the final say on what happens to those minerals.

With regard to uranium, for instance, there is no reason on earth why the Northern Territory should not have ownership of that mineral because the Commonwealth has other powers with which it can curb the mining or the exportation of it. It does not need to own it to do that. But if, as a state, we owned it, we could issue title. We could let other people take the risks. That would be their problem but, if the federal government wanted to interfere in other ways, (inaudible) but the ownership should be ours.

Geoscientific activity is very close to my heart. We have agreements with BMR to do joint work together. These things should be cemented in place. We have the assessment of resources in Kakadu National Park. I believe that should be done by a suitably qualified scientific team. We do not have to dig holes in the park, but we ought to know what is there for future reference. At the APEA Conference yesterday morning, I heard a man say that development and conservation are the same process, they just have different time frames. Development is here and now and conservation is for the future, and I think that that is a very nice thought to entertain.

I am willing to answer any questions about any of these things that I have enumerated but really, to save the time of the committee, I think I should put this submission in writing. However, that is the framework of what I would like the committee to consider.

Mr EDE: To be fair, I think probably it would be best if we did receive your submission in writing. That would enable us to go through and analyse it and to get out a series of questions which we could then put back to you at a later stage.

Mr WATTERS: Right.

Mr EDE: If we were to try to do that now, our questions would be hypothetical and probably that would make it rather difficult. That might prevent us getting to the finer points that you have to make on those very important issues.

Mr WATTERS. I have had this document for only 2 days and I have simply not had a chance to put it together as a formal submission, but I can do that.

Mr SETTER: I would like to endorse that because, certainly, you have raised issues there, Roger, that we could discuss and debate for hours, as you indicated earlier. Really you have only summarised what you have in mind. I think it would be most beneficial to the committee if we could have your detailed submission in writing which we could consider and then ask you to return at a later stage.

Mr WATTERS: I will be in that.

Mr SETTER: That way, you and we can go into it in depth.

Mr HATTON: May I just make 1 point, Roger? I equally endorse that view. I would like to see a detailed written submission because you are dealing with some very complex issues. A number of the issues you are dealing with are to do with the matter of the transfer of powers

between the Commonwealth and the Territory and they are things like ownership of resources, offshore ...

Mr WATTERS: Ashmore and Cartier.

Mr HATTON: Yes, management of offshore resources, and rights with respect to Aboriginal land rights as a federal act of parliament and so on. Equally, you may wish to make submissions on those issues to the Chief Minister, who is dealing with the issues of the transfer of powers. Although they are equally submissions that will flow through in any debate about statehood and the power structure on statehood. We would like to hear about them, but you may ...

Mr WATTERS: You mean, sift them out?

Mr HATTON: Oh, do bring them to us, but you may also want to refer them to those other forums. You understand that this is a parliamentary committee and it stands separate from government. It has equal representation from both sides of the parliament, and we are dealing with the constitutional development process. Although we do have, as part of our charter, the promotion of understanding about statehood and issues associated with it, we have been concentrating our attention first and foremost on this constitutional development question. But we would certainly be very keen to receive your submission.

Mr SETTER: Roger, a paper was prepared on land matters upon the transfer of powers. Did you prepare that paper?

Mr HATTON: On statehood.

Mr SETTER: On statehood.

Mr NICHOLSON: There was also an option paper on mines and minerals.

Mr SETTER: Did you prepare that, Graham?

Mr NICHOLSON: Actually, it was the Department of Mines and Energy, and I helped to prepare it, yes.

Mr SETTER: Right.

Mr NICHOLSON: Perhaps we could provide you with a copy of that, Roger.

Mr WATTERS: I have copies of the green papers and all that sort of thing.

Mr HATTON: These are separate. There is 'Land Matters Upon Statehood'.

Mr SETTER: Yes, I do not think that you would have this one.

Mr NICHOLSON: There were 3 of them, actually, covering land, environment, minerals and resources.

Mr HATTON: Minerals and resources, yes. You may find that these relate to many of the issues that you are referring to.

Mr WATTERS: All right. I would like to have that.

Mr NICHOLSON: If he intends to prepare a written submission, I would like to ask Mr Watters whether he might like to say whether he thinks any of the matters he is raising are matters appropriate to be included in a constitution as distinct from their being dealt with as statutory matters.

Mr WATTERS: Yes. I believe that the ownership of the resources under your feet ought to be vested in the government or in the people, via the government. One of the vital points that I would make is that I do not believe that this should be governed by Canberra.

Mr HATTON: You believe that the ownership should rest with the state government rather than with the Commonwealth government?

Mr WATTERS: Yes. The Commonwealth government has other powers which enable it to control things. That can be done through export licences, but the ownership and the issuance of leases and other mineral tenements must be vested in the state.

Mr NICHOLSON: That was not really the point I was making.

Mr HATTON: No. For example, in a number of Aboriginal communities it has and is being argued that there should be some constitutional protection for Aboriginal law, customs, language and land rights. They are issues that are very dear to the heart of very many Aboriginal people, and they are looking for a process to entrench rights to step over the top of the government's ability to remove those basic rights. The freedom of speech is another example of something that should be protected, perhaps, in a constitution.

Mr Nicholson is asking whether there are any elements in the matters that you are referring to that you think should be considered in that context.

Mr WATTERS: I will have to think about that.

Mr HATTON: You may want to give it some thought. Off the top of my head, I cannot think of any.

Mr WATTERS: No. I will have to go through it and think about it, but I cannot think of anything off the top of my head either.

Mr HATTON: In those information papers there are some guidelines and ideas on those elements of a constitution which you may find useful. Thank you very much.

Are there any other people who would like to ask any questions or make any comments? This meeting is open and free. It is not formal. This is a chance to say exactly what you think.

Mr COLLINS: For the record, my name is Denis Wilfred Collins.

Steve, I trust that, with our constitution, we may be able to avoid some of the errors in the Australian Constitution. As you said, once a constitution is in place, it is very hard to alter it in any way, so there is a need to get it right at the beginning. However, no doubt you are well aware that some backdoor methods have been employed to change our Australian Constitution. One example was the High Court ruling in the Tasmanian dams case, giving the foreign affairs power to the federal government which overrules the states. So, it really does need to be gone through with a fine toothcomb.

Another aspect that I have become aware of only during the last 2 or 3 months is that for years, indeed probably ever since the Australian Constitution has existed, governments of all shades have been signing international agreements. Actually, it is not really the government as such. Rather, it is the Attorney-General or an executive officer of the federal government of the day, of whatever shade it may be, who has the power to sign documents on our behalf. They do not go to our parliaments to be debated and, often, they have been signed without the parliaments being aware apart from the fact that the appropriate person tables those documents, which have already been signed, sealed and delivered.

I believe that some of those take away the sovereignty of the Australian voter to determine matters. It is sometimes said that the ordinary person feels that his vote does not count for much but if there is a government policy or whatever, affecting a particular area, that people do not like, if they get together collectively on it, they can change things. This is a democracy and people here have the right to get up and throw the government out. I believe that the people's right to do that sort of thing has to be guarded very strongly indeed.

Mr HATTON: I agree with that, and I understand the point you are making following such things as the Tasmanian dams case. It may be possible to look at developing, inside the body of the constitution, some mechanism whereby, if there were anything that was likely to change power, that must go through some form of process. Clearly, I do not know the answer to that at the moment but I can well understand your concern about that matter.

Mr COLLINS: You realise, of course, that much of my concern is really a state/federal matter.

Mr SETTER: Sure.

Mr HATTON: It may well be that the process could be developed in a submission.

Mr EDE: Do you have a submission or are we just discussing things? I am just seeking clarification as to whether we are actually questioning the witness or just discussing back and forth.

Mr HATTON: We are just talking.

Mr EDE: May I ask a couple of questions?

Mr HATTON: Yes, sure.

The point I was making is that it may be possible to look at developing a clause that says that, where a decision of a court or an action taken by a government is likely to have the

consequential effect of interfering with the rights of citizens of the Northern Territory, there should be either some restriction on the ability to do that or some formal public process.

Mr COLLINS: It must be ratified by referendum.

Mr HATTON: Well, that may be the answer.

Mr COLLINS: It is certainly.

Mr HATTON: It is certainly an issue that we could examine, as a community.

Mr EDE: Mr Collins, as I understood it, you were saying in your submission that you do not agree with some of the interpretations that the High Court has put upon certain sections of the Australian Constitution. Have I understood that correctly?

Mr COLLINS: I will put it this way. In effect, 5 people comprising the High Court have altered our Australian Constitution and taken away from the rights of the sovereignty, as I see it, of the Australian people. That has been taken away by the High Court now. I think that, if a High Court decision of that nature is made, there should be a mechanism in our Constitution which brings that decision back to the people. In essence, I am saying that that was the interpretation decided on by the High Court at that time. I think that it is fair to say that, in 10 years time, the High Court as then constituted might make a different interpretation.

Mr EDE: Exactly.

Mr COLLINS: That is the point. Constitutions are always open to interpretation, but we need to put it as clearly as possible that a change to our constitution must go back to the people.

Mr EDE: That is the point I wish to make. In effect, the High Court is not changing the Constitution. Its members are interpreting it, that is, they are giving their interpretation of what has always been in the Constitution. Do you consider that the courts are the proper process for the provision of that interpretation?

Mr COLLINS: I guess it is necessary to have a governing body somewhere. But no, in the overall view, the highest court of all has to be right back with the people. It is not always easy to consult but, difficult as it may be, it should go back to the people at some stage and the people should have the final say.

Mr EDE: Are you saying then that, if there is disagreement with the interpretation of what the Northern Territory constitution is saying, that should go to a referendum of the people for resolution?

Mr COLLINS: Let us put it this way. I think so, if enough public concern is raised. That may be the issue that drives that. Of course, if there is no great concern, then we will not do it. But I believe that the people are the final arbiter.

Mr EDE: Do you see an intermediate way that can be taken, rather than putting every question in dispute of interpretation to a referendum? As you know, when you get 2 lawyers together you get 5 opinions.

Mr COLLINS: That is right. I agree. However, I do not think that it will arise so very often if we can get it pretty right in the first place. However, if such matters do arise, then let them go to the courts first up but, if people are concerned about the outcome then it should go to them. That can be done in a rational time frame, perhaps at election time. It could be written in. It might crop up during the first year of a term of a government. Well, then the court will make a decision and, if the people are unhappy about the outcome, at the time of the next election a referendum will be conducted in conjunction with the election.

Mr EDE: Basically, you are saying that you want clarity in the constitution to ...

Mr COLLINS: Surely, we all want clarity.

Mr EDE: Right. I am trying to get your last point right, because I did not quite understand it. If the courts make an interpretation, and there is a degree of public outcry, which we have not defined, that matter should then go to a referendum.

Mr COLLINS: Let us put it another way. Let us say that, at the next election, the people validate that High Court decision, when it is an interpretation of the constitution.

Mr EDE: So, there would be a mechanism within the constitution whereby a referendum might be called, if the courts interpreted the constitution in a way that gave rise to a controversy, measured possibly by some form of recall or as a result of x% of the population having put their names on a document. At the next election, such a referendum would then be taken on that point to see whether the public wanted to uphold the interpretation of the courts on the point or change it.

Mr COLLINS: Well that is one way, and I am sure there are plenty of people ...

Mr EDE: I did not mean to put up a proposal. I was trying to interpret what I thought you were saying.

Mr COLLINS: Right. I see some merit in that, but I see merit also in the suggestion that where there is controversy because the court makes an interpretation which, in effect, changes the constitution, then it should go automatically to the people. As you know, the interpretation in the Tasmanian dams case gave power to the Commonwealth and took it away from the states.

Mr HATTON: Could I clarify something for the people who are listening to this interesting debate?

Mr COLLINS: Are we boring everybody?

Mr HATTON: No, I do not think it is boring people, but some people may be becoming confused.

When interpreting the Australian Constitution, it is a peculiarity of the High Court that it is not bound by precedent. That means that, in 1 year a High Court can make the decision that the Constitution means one thing and, later on, another High Court may decide to change that. It is not bound by that earlier decision. It can decide an issue as it sees fit. It is an organic process with the Australian Constitution. In effect, that means that the High Court can vary an interpretation of what a clause means. It can shift it so that, in that process, through the interpretation, it can change the effect of the Australian Constitution. It is not bound by any previous decision of the High Court. I will ask our legal adviser to confirm what I am saying.

Mr NICHOLSON: That is true, but also they do give great weight to precedent.

Mr HATTON: They are not bound by it, though?

Mr NICHOLSON: They are reluctant to depart from it.

Mr HATTON: But they are not bound by it?

Mr NICHOLSON: They are not bound.

Mr EDE: As the highest court, they cannot be bound.

Mr HATTON: That process I am referring to has led to changes and shifts in interpretation of clauses in the Australian Constitution over the 90 years since federation. I say that because that might be the sort of issue that you are referring to.

Mr COLLINS: It is, Steve, yes. I think that there should be a mechanism to ensure that it goes back to the people for them to be the final arbiters. In an instance where there is no great concern in the community about it, then no referendum would be needed at the time of an election. Of course, that would save extra expenditure and I can appreciate that fact. However, if there is concern and sufficient people respond to the CIR, the citizens initiated referendum, which has been going around, then I see some merit in that and I believe that the people should have the final say.

Mr WATTERS: May I ask a question?

Mr HATTON: Yes.

Mr WATTERS: This is a hypothetical question. If a contentious issue was causing division in the community and this was put to the High Court and it suggested (inaudible), would not this be good cause for holding a referendum?

Mr HATTON: It may be, if you want to write that in. In the absence of any rules that say that that is a cause for a referendum, you would take the majority decision.

In the High Court situation, where it has had the 4:3 splits, those decisions are more likely to run the risk of being changed later by the full bench of the High Court.

Mr SETTER: Denis, your opening comments referred to the exercise of foreign affairs powers, which we have seen on several occasions over a number of years now. Personally, I do

not see any way in which we could formulate a Northern Territory constitution to prevent that in the future, because the reality is that the foreign affairs powers are vested in the Commonwealth by way, I believe, of the Australian Constitution. There is no way that a Northern Territory constitution could ever override that, so I think we have to live with that unless, at some stage, the Australian Constitution is amended.

The other thing I wanted to point out to you is that, when eventually it is written and accepted by the Northern Territory people, probably the Northern Territory constitution will be like no other constitution in this country. That will be so because it is being written in the 1990s, if you like, compared to the other constitutions which were all prepared in the late 1800s.

Furthermore, this committee is going to great lengths to seek input from people and, whilst people in urban communities may not have a great awareness of what we are on about at this point in time, it is necessary to understand that we have concentrated most of our efforts in the rural areas, in other words, with the Aboriginal communities, as the starting point. I am very confident that, as time goes by, awareness in the urban communities will build up to a crescendo with considerable interest being demonstrated in these various issues. A great deal of debate will go into this before we finally come up with a draft constitution.

Mr COLLINS: I would make a further point. I am reminded that, when I was in Tasmania in 1983, the parliamentarians there were saying that it was just the Premier of the day, Mr Lowe, (inaudible) who, unilaterally and without even the involvement of his Cabinet, put south-west Tasmania on the World Heritage List. The High Court then interpreted ...

Mr NICHOLSON: He consented to it. It was placed on the list by the Commonwealth.

Mr COLLINS: Right, I stand corrected there. But he consented to it anyway, without his Cabinet colleagues, his parliamentary colleagues or the parliament of Tasmania having any say on or real knowledge of the whole thing. From that, of course, the High Court has interpreted it now as an external matter that falls, therefore, within the province of the federal government. I would like to think that we may be able to write something into our constitution which would prevent such a course being effected by one person.

Mr BAILEY: To go back to your comment that there is a way that constitutions are interpreted by the courts, I have a problem there. As I understand it, if the courts produce an interpretation of a constitution - not a change, but an interpretation - which has the effect of causing concern with the mass of the people covered by that constitution, then you are suggesting that it should possibly go to a referendum. Would the question put to the referendum relate to interpretation of that clause or would it be to change the clause to clarify it? In other words, would you be looking at changing the constitution, through the referendum, or changing the interpretation?

Mr COLLINS: That would depend on the particular case in question. If there is an interpretation but it does not make a change ...

Mr EDE: Depends which side of the fence you are on!

Mr COLLINS: I think we may be juggling two different things. You are saying that, if there is no change to how it should have been interpreted before and the effect and outcome, then there will be nothing to worry about.

Mr BAILEY: You seemed to accept that there needs to be the ability for the legal system, or the High Court, to interpret the Australian Constitution because there will always be issues that will come up that the Constitution may not have been tested over before. Therefore, some body is needed which can assess whether or not that situation is covered by the Constitution. Do you acknowledge that?

Mr COLLINS: I accept that there has to be some body to start the process off but, if the result of the interpretation is such that it has to be said that there is a very real effect, for example, taking away the control of a large part of a state and putting it in the hands of the Commonwealth, then that is a very real and obvious effect and that is the sort of thing that I believe that we have to bring finally to the people. Of course, it could be prevented.

Mr BAILEY: My understanding at the moment with the Constitution is that if that was objected to by such a large proportion of the population, then at least one of the political parties or someone else could have have moved for a referendum to change the Constitution to bring that back.

Mr NICHOLSON: They have to pass a law through the federal parliament to get a referendum.

Mr BAILEY: But the number of people who need to support a referendum to get a change in the Constitution would indicate that if that many people objected to a decision being made by the High Court, then there should be enough support to get a referendum in the first place.

You are saying that a decision was made that you and a number of other people may not have liked and, because you did not like it, you then said that you wanted it put to a referendum, rather than saying that really there was enough support in the community to go for a referendum anyway, to change the Constitution. If it is regarded any other way, we will arrive in a situation where, every time there is a fresh interpretation of a constitution or a concern is expressed by a group of people, we will be saying that we should have referendum on this decision or another.

There is already a process. As was mentioned by our chairman earlier, recently there have been a number of votes on proposed changes to the Australian Constitution, and it was not changed.

Mr COLLINS: That is the democratic decision of the Australian people.

Mr BAILEY: And it should have been possible for the decision that was taken by the High Court, which you felt was so innocuous, to be pushed enough ...

Mr COLLINS: Not innocuous, obnoxious!

Mr BAILEY: Obnoxious, right. It should have been possible for that to be have been taken to a referendum to have it clarified or changed within the Constitution, and that is there.

Mr COLLINS: But it is not there. As has been explained, the only way is if the government of the day is persuaded to pass a law. It is a matter of numbers.

Mr HATTON: Perhaps I could provide some guidance, and I am doing no more than that. I am not expressing my own view on this at all, but it may be that what would address the sort of problem you are talking about would be that, if there were an interpretation of the courts, the Supreme Court of the Northern Territory or the High Court or wherever, and it were decided in our constitution that you could interpret our constitution then if that interpretation was such that a large number of people in the Northern Territory were offended by that decision, because they did not mean the constitution to mean that thing, that might make a case for what is called a citizens initiated referendum. That is to say that, if 10% of the voting population signed a petition, that could force the matter to be brought forward by way of referendum on the question of whether the constitution should be amended to take it back to what the people believed it should express. That is a process whereby the community can initiate a referendum to amend the constitution, and they do not have to rely on the government to bring forward a suggested amendment.

That is a suggestion you might want to work on and perhaps to look at bringing forward in some sort of written submission. That might provide a way of dealing with what you are talking about.

Mr COLLINS: What I am really on about is that the final say must lie with the people and a mechanism must be included that will ensure that. That is democracy at its best and the parliaments do abide by that.

Mr HATTON: That may be a mechanism. A number of people are arguing the cause for citizen initiated referenda. That situation might warrant saying that a designated number, be that 5% or 10% or whatever, of the greater population can force the government to put a referendum in place on a particular question. It might be possible to write that into a constitution to provide that protection. You might care to give some thought to that.

Mr COLLINS: Yes, I will put pen to paper on that aspect, and I thank you kindly.

Mr HATTON: Thank you, Denis.

Would anyone else like to any questions or make any comments? This is a chance to ask any question you like or say what you like.

Mr EDE: The point should be made that we are accepting submissions. I have noticed that some people have been taking these information books etc. Please do not feel that you have to wait for a formal invitation to put in a submission. If there is any issue whatsoever that you would like to raise formally, ask a question about or put forward a view on, please feel free to do so even though you may feel that you may well be backing a different point of view later on. But if you want to try out an idea now and see how it stands up, we will be glad to hear about it because we really do need to hear people's views. We have probably 50 or 60 so far and I would hope that by the time that we get to working through this, we will have a far broader range of opinion than that.

Ms CURR: Are you intending to invite schools to this forum? We feel that high school students should be involved in this sort of discussion.

Mr HATTON: We have not invited schools formally to come to these forums, but that may be a matter the committee could look. It could consider whether we might look to hold forums within the schools. I can advise that the committee has been working with the Department of Education. The process of constitutional development and the writing of a constitution are being built into the social and cultural curriculum. It is part of the education process within the schools. Young people in secondary schools are coming to an understanding of what it means to write a constitution. It is a unique opportunity for them to obtain a practical understanding of the entire setting of governments and democracy.

Mr SETTER: Mr Chairman, I think it would be fair to say that the committee has not yet developed a formal urban awareness program and such a program, of course, would include secondary schools. However, I can say that we have addressed classes in secondary schools, from time to time, over the last 12 or 18 months. I know that our chairman has addressed a whole range of service clubs and other organisations during that same period.

Mr HATTON: Not only me. Others have as well.

Mr GOLDBERG: What time frame are you working within?

Mr HATTON: We do not have a fixed time frame. We kept setting time frames and then breaking them. We know that we have the time to do the job properly. I could say that we would like to have a draft constitution written in 12 months time. We said that last year. What we really want first is to undertake the process of getting people to start thinking about it, understanding what is happening and becoming part of it. When we have that involvement of people in the process, we can start to obtain something that will really belong to the people. I do not think you can put a time on it. You simply have to keep working at the job.

We are pushing it, but we are not pushing it to a time scale. We are trying to take every opportunity we can to get people thinking about it because it is fundamentally important. I know it is not an immediate headline grabber today in the way that the flood mitigation dam is the big topic in Alice Springs at the moment. However, it is one of those things that is fundamental. We think it extends beyond party politics and we are all trying to work with the community in relation to it. You cannot put a timetable on that. We are not locked into a timetable.

Mr COLLINS: Mr Chairman, don't you think there is a problem there? If you do not put a timetable on it, people will not really begin to grab hold of it until there is 3 months to go and they are told that the resulting constitution will be it. There is the old saying that nothing concentrates the mind so much as the knowledge that you are to be hanged in the morning.

Mr HATTON: That is true, Denis. You can take that line. However, Brian and I have been on this committee since its formation. I think we are the only 2 survivors of the original committee.

Mr EDE: Wes Lanhupuy.

Mr HATTON: We have been on the committee since 1986. We have seen a progression from shock horror that anyone would even think about the subject, through confusion about what we are talking about and then to a growing understanding of the process. I believe that it will begin to move on to involvement. In relation to the Aboriginal communities, we have seen a dramatic increase this year in the level of participation and involvement. The communities are forming drafting committees to prepare submissions. We have put a great deal of effort into communicating with rural Aboriginal communities because of the difficulties with language and culture and the lack of mass communications.

We need to develop particular strategies to get people involved in Alice Springs and Darwin because these are larger urban areas. However, I am confident that people will become involved. When we take the eventual step of producing a draft constitution, the people will understand what is going on. When we start talking about forming a constitutional convention of Territorians, people will know what is happening and be part of that process. Our job is really to start it off. We will prepare a draft constitution and recommendations for a constitutional convention which is a drafting committee of representative Territorians.

I have told every community that I have visited that the people cannot trust this job to politicians and lawyers and that they have to do it themselves. The convention will prepare the proposed constitution which will be put to a referendum of Territorians. The people will be able to accept or reject it. If they reject it, we have to continue working until we obtain a yes vote. In the end, the constitution will be approved by the Territory people. The more we involve them from the beginning and the greater the understanding that they have of the process, the greater the chance of obtaining an end result at an earlier date.

Mr SETTER: Mr Chairman, I would like to comment further on that. Even though we do not have a time frame as such, there is a program in place. The committee has been working on this for about 4 years. The first part of the program was the committee itself finding out what it is all about.

Mr HATTON: That took a couple of years.

Mr SETTER: That is right. We then prepared several position papers which are available, and I believe you have copies of them. That took a a great deal of work. We then undertook the next stage which is community consultation. Last year, we visited some 60 communities in the Northern Territory. We are into the second phase of that now. At some time in the future, depending on the time and resources available, that consultation process with the broader community will be completed. We will then move to the constitutional convention stage and then to the referendum. Thus, there is a staged process that we must undertake. We are in the second stage now.

Mr COLLINS: Mr Chairman, as you have spent more time in the communities, have you noted an acceptance that, in many ways, the constitution must be a broad document in order to satisfy the wider community or are there still many vested interests desiring things in the constitution which would make it very difficult for others in the community to accept it? Many of these things can be covered by legislation which can be varied as needed from time to time.

Mr HATTON: I do not think there is any clear cut answer to that, Denis. There will always be vested interests who will promote the things that are important to them. Earlier tonight, I mentioned things that are particularly important to Aboriginal communities. Their attention is concentrated on those, but they recognise that other people have different viewpoints. The committee has explained that this constitution must apply to everybody in the Territory. For that reason, Territorians must talk through their differences, balance the needs of different sections of the community and find a common road for the future.

Everywhere that I have gone - and I will ask the others to comment - I believe that 2 things have been clear: there is an acceptance of the need to set a path for the future and there appears to be a burning desire on everyone's part to find a process of equality. Interestingly, different communities believe other people have rights over and above the rights that they themselves enjoy and both sides are arguing for equality. I believe that it will be a really interesting process at that constitutional convention. When those people come together to talk through those differences, they might actually find that they have a common goal and will find a solution. The process of Territorians coming to terms with their own reality is really important in setting a path for the future.

Mr COLLINS: If the constitution is rejected on the basis of a straight yes or no vote, you may have no real idea of the grounds on which it has been rejected. Perhaps it may be simpler here because the Territory has a small population. I know it is a long way down the line, but one would hope that individual questions would be put so that you would have some feedback in relation to aspects that are not supported. You would then know that it is 90% acceptable or whatever.

Mr HATTON: There has been some discussion on that within the committee. I believe that probably we would recommend that that be left to the convention. There could be a yes/no structure for different sections such as the parliament, the court system etc. You could build it up like building blocks. That may well be the process, but I believe that this committee may well recommend that such decisions be taken on the floor of the convention. The structure of that convention will be really important. By the way, we are also looking for submissions in relation to that. Who should be represented on the constitutional convention? How large should it be? We have made available a discussion booklet on that subject. It will be an interesting and lengthy process.

Mr WATTERS: I thought it would go on forever.

Mr HATTON: I do not believe it will go on forever. I reckon 3 to 5 years. However, it is the first time that Territorians have ever been asked how they want the Northern Territory to be run.

Mr JOHANNSEN: Mr Chairman, I would suggest that our government should always be asking Territorians how they want the Territory to be run.

Mr HATTON: Touche. What I am talking about is the actual structure of the government, how you elect a government, what rights people should or should not have etc. We do not have the power to ask you that question except through this process. That is what I am talking about. I think there is plenty of other consultation occurring. Some people argue that there is too much, but I don't.

Mr JOHANNSEN: My name is Dave Johannsen. I am President of the Territory Nationals. However, I am here on my own account. I am not here as a representative of the Territory Nationals.

Could I say firstly that I believe the process is important. The Territory should be governed by Territorians for Territorians. We should have control of all aspects of the Territory. It is important that the federal government does not retain control over aspects of the Territory which it does not have control over in relation to the states. When it comes to statehood, which is the next step further on, we should not have 'class A' and 'class B' Australians. We should all be equal on that basis.

Could I suggest to the committee that, when it is looking at enshrining rights of individuals into our constitution, it should be conscious of the fact that, when it begins defining rights, it is actually limiting rights as well. I would suggest that that is the main reason why the Bill of Rights was knocked back when it was presented to the Australian people. When you try to define what somebody's rights are, you begin to infringe on someone else's rights. It is indeed a difficult matter.

I was interested in your comments earlier about citizen initiated referenda. If I could tie that in with my earlier interjection in respect of governments, the only way that a government can govern for all Territorians is to provide some mechanism whereby Territorians can say that they do not want a State Square or a dam or whatever and to have that binding on the government. In effect, that is the basis of citizen initiated referenda. I am no expert on this but, unless you give citizens some means of controlling what governments do, a government cannot say that it has a mandate for everything that it does.

I would like to comment also on the process that we are talking about of arriving at a constitution for the Territory. It seems that the process needs another stage in it. There is to be a convention that will prepare a draft for presentation to the people in a referendum. It seems to me that the constitution either will be adopted with many things in it that people do not like - because it is a simple yes or no choice - or it will be rejected because there are small clauses in it to which people object. I believe that there should be a further stage of consultation with the people that goes beyond the 'take it or leave it' concept and beyond the formal convention that you are talking about.

Mr HATTON: Would you support, for example, the concept of putting a series of parts to the people?

Mr JOHANNSEN: Either put to the people one part at a time or ...

Mr HATTON: Or multiple choice?

Mr JOHANNSEN: Debated in depth one at a time, yes.

Mr SETTER: Mr Chairman, I would think multiple choice. In other words, there would be options within whatever the proposals are.

Mr EDE: I would like some clarification. It may be that you are saying that the final step will be a yes or no to the entire constitution. However, would you accept that there is a danger in finally going to multiple choice in that, during the course of the convention, there may be offsetting

discussions between different groups? One group may say: 'We will accept the provisions that you want in respect of the rights of this group if you accept these rights for this other group'.

Mr JOHANNSEN: I will accept that that is a problem.

Mr EDE: We may then end up with a yes for one and a no for the other.

Mr JOHANNSEN: That may well be the case, but I am simply talking about the overriding principle of not presenting a 'take it or leave it' proposal to Territorians because the history of referenda in Australia indicates that people generally will leave it. You have to ensure that it is marketed to the people in such a way that they will accept it. You also have the problem of protecting the rights of minorities in a situation where the majority decides. There is no answer to that except that, as you have already indicated, Territorians are reasonable people. You will have to fall back on that fact.

Mr HATTON: It is a question of finding the right balance and protecting those things that are critically important to people. It is a balance aimed at achieving equality. I believe that Territorians of all cultures and beliefs seek a sense of being treated as equals and also for there to be respect for their culture.

Mr JOHANNSEN: How much interest have you had in citizen initiated referenda?

Mr HATTON: There is some interest. There is a lobby group in the Northern Territory that is promoting that cause. It has made formal and detailed submissions to us in writing. Its representatives have appeared before the committee to explain and debate the issues surrounding the concept of citizen initiated referenda. Whether or not the committee supports or opposes any concept, all the evidence that is put before us will be forwarded to the convention. We will not hide anything from the convention.

Mr JOHANNSEN: I am not part of any lobby group. I am simply interested in the concept.

Mr HATTON: Sure. We have been trying to get people to be part of this, not merely lobby groups.

Does anyone else wish to make a comment or ask a question? I thank you for coming along. Although the numbers have been small, I hope that you have found it interesting. I ask you to take the opportunity to be part of this process and please encourage your friends and acquaintances to take part also. It is our future that we are talking about. We look forward to increasing participation in this process. I formally declare this hearing closed.

SESSIONAL COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC HEARING

ALICE SPRINGS — Wednesday, 5 July 1995

PRESENT:—

Committee:

Mr Hatton (Chairman)
Mr T Baldwin
Mr P Mitchell

Officers assisting the committee:

Mr R Gray (Executive Officer)
Mr G Nicholson (Legal Adviser)

Appearing before the committee:

Mr John Richardson
Ms J Lee
Mr B Ivory

NOTE: This is an edited transcript.

ISSUED: 27 July 1995

NOTE: Mr Hatton's opening remarks were extremely difficult to decipher due to technical shortcomings in the recording of proceedings. The first 6 paragraphs of this transcript comprise an edited paraphrase of Mr Hatton's introductory remarks compiled from the audible fragments of the recorded proceedings.

Mr HATTON: This is a parliamentary committee comprising representatives from both sides of the parliament. It is unique in the sense that it is the only parliamentary committee with equal representation from both the government and the opposition, both of which have three members. Through unforeseen circumstances including sickness and other adversity, the Labor members of the committee have been unable to attend this hearing.

There were to have been five of us present in Alice Springs. Wes Lanhupuy has been unable to attend because of illness. The sixth member of the committee, John Bailey, will be catching up with the roadshow later during the cycle.

Our committee's terms of reference can be summarised as: firstly, to research what needs to be done for the Northern Territory to become a state; secondly, to prepare the draft of a Northern Territory constitution; and thirdly to make recommendations to the parliament concerning a Northern Territory constitution and the move towards statehood.

We have been working on this task for 10 years and it is fair to say that when we all started in a blaze of enthusiasm, none of us realised the complexity and detail that would have to be gone through to achieve that objective. Over the period we have produced a large number of discussion papers and interim reports on a range of issues, together with a series of ministerial statements and progress reports to the parliament.

Our purpose has been to try and get information to the community on different subjects, including issues such as recognition of Aboriginal customary law in the constitution or otherwise. Submissions have raised the issue of whether or not a bill of rights should be included in our constitution. Should we have provision for citizen-initiated referenda? That is a procedure where, if enough signatures are collected from the citizenry, parliament can be forced to pass a law on a particular matter. It gives more power to the people, if you like. Citizen recall can force the government to go to an election at a particular time.

Other issues include the role of judges and the courts, and the overall direction of society within a framework of rules. How will our institutions shape the nature of this society in the future? The only way the structures can be created is through a framework for government - the constitution. The constitution is the foundation of law in any society. It is the law where the people have a final say in terms of governing themselves and protecting their rights.

The remaining recorded fragments of Mr Hatton's opening remarks were inaudible. The edited transcript then resumes as follows.

You could move from single member to multi-member electorates, and maybe back to single member electorates over time. Or you could lock in multi-member electorates, as in the Tasmanian situation. It is about choices and how much you want to entrench in your constitution.

We have written down the different choices for people to think about and comment on. I guess we all have our own views but we want the views of the people.

Should we have have a fixed term parliament or a partially fixed term parliament? For example, the parliament might be required to serve at least 3 years of a 4-year term. Do you lock in no limitations, no fixed term at all, as we have at the moment? It is something you can think about and read about. We are trying to draw out your views. We would like people to take away this document and think about the issues it discusses, so that they can come back to us with their views.

The document is brand new. All of the discussion papers and submissions over the last 10 years have come down to us producing that. But that will not be the end of the day. We hope to have this job completed by the end of this year or early next year. At that stage, we will walk into the parliament and table our draft constitution. At that stage, our committee will finish.

At the same time, the parliament already has before it a report on a Northern Territory Constitutional Convention. The process will continue like this.

We will prepare a draft constitution with all this background information. We will present that to parliament. The parliament will then create what is known as a Northern Territory Constitutional Convention. That is like a giant drafting committee of Territorians although it will have more power than a committee. Its job will be to go through this draft clause by clause and word by word if need be. It will be talked through and discussed in detail, and changed, accepted or rejected. The result of that process will then go to a referendum of all Territorians. The aim is to have that referendum held in 1998. That allows 2 years for the convention to build on our work to produce a document which it can confidently put to the Territory people.

Obviously, the structure of the convention and its representation is very important. How should it be made up? Who has a right to be there and who should not be there? Who is likely to be under-represented? How do we ensure that it is representative of such a diverse community as the Northern Territory. We are a very diverse community in many ways - geographically, racially, culturally and ethnically.

We believe that our recommendations achieve the result. We are suggesting that the convention comprise a mixture of elected and nominated people. The election would be conducted like a normal general election, except that there would be 10 electorates across the Northern Territory, each electing 5 members. Because the quota numbers would be low, smaller group interests would be likely to get some representation through the ballot box.

We are also saying that a quarter of the members - no more than a quarter but about 16 or 17 members - would be nominated from particular interest groups or minority groups within society. This would, for example, ensure Aboriginal representation, industry or employer representation, and employee or trade union representation. There could also be perhaps representation from ethnic organisations in the Northern Territory, the youth sector and the aged sector of the population.

We are looking for views on what sectors should be in that nominated category, to cover those who may not achieve representation through the ballot box. Who do you think should have

their voice heard? The constitutional convention needs to reflect the Territory's diversity. That is what we want people to think about during the course of this year.

Give us your views and thoughts on that because we have to finalise recommendations to the parliament in the preparation of what will be known as the Northern Territory Constitutional Convention Act. We want that passed through parliament by early next year so that the election can occur towards the middle of next year and the convention can be working by the second half of next year.

The time is upon us. It is a time to get busy and to make decisions. That is really what we are doing now. We are saying: 'Look, we are doing all this work. Have a look. Please tell us if you think we are going down the right road'. We have to start making some decisions. Otherwise it will be the year 2101 by the time we start getting through the process and, frankly, we are not prepared to wait that long. We need to have a constitution in place by about 1998 so that we will have a clear expression of the views of Territorians about how they want the future Northern Territory to work.

We can then go to work in negotiations with the federal government of the day, to get the Self Government Act changed into the Northern Territory Constitution Act so it will be our constitution that governs our Territory rather than a document imposed from Canberra. Secondly, we can start to negotiate the transfer of powers and functions in order to achieve statehood in 2001. That would allow 2 or 3 years for the negotiation process to take place. We need to work hard at the process to get there. That is really what we are about. That is why we are here.

The document covers a lot of contentious issues. In the recommendations attached to the draft, although I believe this is not contentious, we have included a preamble. It is like the history of the Northern Territory and its evolution. For the first time in Australian history, a government constitution would recognise the prior occupation of Aboriginal people in Australia. I will read you the words:

Before the proclamation of the colony of New South Wales in 1788 and since time immemorial, all or most of the geographical area of Australia that now constitutes the Northern Territory of Australia was occupied by various groups of Aboriginal people under an orderly and mutually recognised system of governance and laws by which they lived and defined their relationships between each other, with the land and with their natural and spiritual environment.

It continues, describing various governmental arrangements for the administration of the Northern Territory, to the current day. It concludes in the following terms:

The people of the Northern Territory, voting at a referendum, have freely chosen to associate in accordance with this constitution as free, diverse yet equal citizens, and to be governed under it in accordance with democratic principles. Now therefore it is declared that this is the Constitution of the Northern Territory.

That is what we are working towards as part of the evolution, the history and the growth and development of the Territory.

We have dealt with other concepts in here, including what are known as organic laws. It is a new concept to Australia. We have heard of the common law, the law made by the courts. You know what an act of parliament is; they call that statutory law. You know what a constitution is; that is a law made by the people. Between an act of parliament and a constitution, you can have a higher standing act of parliament which is called an organic law. It is harder to make and harder to change but it is done by the parliament. The suggestion is that perhaps such acts might only be passed by a vote of two-thirds or three-quarters of the parliament, through 2 separate sessions of parliament by the same majority. Such acts would only be able to be amended the same way. So they would be much harder to change. Basically, you have to get bipartisan agreement in parliament to bring about change with the required majority.

Under such arrangements, it would be possible to say to the Aboriginal people: 'Look, the Northern Territory Land Rights Act should be a Northern Territory act of parliament. If we make it an organic law, that strengthens your security with the knowledge that no Northern Territory parliament is going to immediately repeal it straight after statehood is granted'. Without that sort of assurance, Aboriginal people will either not accept statehood or they will not accept the Land Rights Act being part of Northern Territory law. If it is not part of Northern Territory law, many of the existing complications and difficulties in relation to Aboriginal land rights will continue.

A similar situation pertains to protection of Aboriginal sacred sites. The document suggests that Aboriginal customary law be recognised as a source of law with the same standing as the British common law. Certainly, this power has the capacity to be overridden by an act of parliament. However, it is recognised as a basis of law for those people who regard themselves as being bound by Aboriginal law.

There are some things to think about. The document makes some suggestions about how these things can be achieved. We have sought very strongly to find a balance for all Territorians rather than for one side or the other. We want all Territorians to be able to say: 'Yes, that sounds fair.' When we reach a point where you think it is basically fair, we would suggest that we are probably getting it right. If you think it is unfair or unbalanced, we need to hear that. The document is being circulated so that you can express your views about these things, before we finalise a draft constitution that will go through the convention stage.

There are some thoughts. There are other things. This year, we will be preparing further documents on such issues as the inclusion of a bill of rights in the constitution and whether the right to have local government should be a constitutional right of Territorians. We have just produced a discussion paper on the constitutional recognition of local government. There is a series of ways in which that can be done and a range of choices. Those are set out in the discussion paper.

It is not hard reading. You can see what they do in other parts of Australia so far as recognition is concerned. You can make up your minds about where we should be sitting in that spectrum, from no recognition to locking it in so that you must have it whether you like it or not. When you write your constitution, you have a chance to make those choices. That is what this process is about.

We need to have our constitution in place. We need to assure Territorians and be assured that the future Northern Territory will be built on the rules that the Northern Territory people want.

That is why we need that constitution in place before we become a state. We need your help to be part of that.

Phil or Tim, would you like to add anything?

Mr BALDWIN: I think you have covered it pretty well, Steve.

Mr HATTON: I am happy to hear any comments you might wish to make. Please ask questions and make whatever comments you like. I am really trying not to frighten you off the task. I am trying to do the opposite. Really it is not that hard. As they say, if you have to eat an elephant, the best way is to do it one mouthful at a time. There are lots of little mouthfuls to think about in there.

Ms LEE: Once the convention is set up, would they be taking further submissions or is this really the only time?

Mr HATTON: No. I would hope that the convention will do that, but it will be beyond our power and control. Members of the convention will be in control of their own destiny. They will be encouraged to take submissions. They will be encouraged, as the elected representatives from regions or nominees from organisations, to be going back and talking to their constituencies, to be providing feedback to their own electorates. They can then bring forward a range of views when the convention meets. It would be like another parliament with one law to prepare.

Mr RICHARDSON: You said it takes two-thirds or three-quarters of the parliament to change organic law. How concrete is the constitution? What percentage of the people will be required to change it?

Mr HATTON: It will be your choice. We have not drafted that clause yet but we are happy to take submissions on it. You could say a simple majority of people or you could require special majorities. You could have a special majority for some provisions with a simple majority of 50% plus 1 for other provisions. Most constitutions in the world can be amended by a vote of a majority of people. However, as you know, historical attempts to vary the Australian constitution show that people are very conservative about playing around with this foundation law. They want to be absolutely sure that they know what it is about and that they are comfortable that any change will be for the better. The only thing governments can do is suggest changes.

In terms of varying the constitution, there is another thing you might want to think about. I think about it a lot in terms of the federal constitution. Should the people have a right, if they get a big enough petition, to force a referendum to amend the constitution? Or should you leave it to the politicians to decide what will be put up for amendment and when? It is your law. Maybe you would want to write in an ability for the citizenry to force a matter to be taken to the people for a vote on changing the constitution.

All I can say is, this is your way. You put the fence around government, all right? Without a constitution, governments are all-powerful. They can do what they like how they like. The constitution is the people's rule that limits and directs the power of government. That is what it is. We can exist without a constitution. Britain does not have a written constitution but there are no

legal limits on the government. I know that is not technically correct, Graham. It has almost effectively evolved into a constitution now, hasn't it?

Mr NICHOLSON: I think since they have entered the European market, they have ...

Mr HATTON: Yes, but prior to that certainly.

Most states only have a 3-page document which they call a constitution. In some states, and I think New South Wales is one of them, the parliament can amend the constitution.

Mr NICHOLSON: Most state parliaments.

Mr HATTON: Most state parliaments, in fact, can do that. They do not even need a vote from the people to change the constitution. Do you think that is satisfactory? I do not.

Mr NICHOLSON: They do have some entrenched provisions. It is not the whole constitution.

Mr HATTON: We are seeking the people's views on such matters. It has to be your law, not mine. It will be my law as part of the Territory, but it will not be my law as a politician. It will be the rules by which I have to act. That is what it is.

Mr IVORY: Now that you have the draft exposure document, has any thought gone into how minority groups might be consulted in terms of providing feedback? I am thinking of Aboriginal groups in particular.

Mr HATTON: We will in fact be taking subcommittees of this committee on a roadshow, if you like, travelling around major communities throughout the Territory during the next 6 months. How many communities are we visiting, Rick?

Mr GRAY: We have not decided yet.

Mr HATTON: But there will be a lot - probably 60 or 70 communities or more. We will be trying to draw people from outstations in to major communities for those meetings.

Mr IVORY: Will you be providing access to interpreters or ...

Mr HATTON: Yes. We would adopt the same process as before, having interpreters available and the freedom to be able to speak in language so that people do not feel constrained because they are not comfortable about speaking in English. We want to hear from people.

Mr RICHARDSON: I have a question about the bill of rights. If a bill of rights was brought into effect, would it actually be part of the constitution or would it be separate?

Mr HATTON: It could be. It is possible for it to be part of the constitution. That is part of what the discussion is about. Should it be inside your constitution? Should you have it as an organic law? Should you have it as an act of parliament?

Mr RICHARDSON: Or should you have it?

Mr HATTON: Or should you have it at all? Should you rely on the traditions of the common law, from which most of our rights evolve? That is one of the questions we are asking people. If you said you wanted a bill of rights, what would you put in it? That is the other question.

There is a discussion paper on that question. It talks about those sort of things. It looks thick but it is not really that frightening. It talks about the pros and cons of different ideas like freedom of association, freedom of speech and so on. We are already suggesting things like the protection of the right to vote by secret ballot and so forth. Graham, would you like to just talk about the sort of things that are in there?

Mr NICHOLSON: Yes, Mr Chairman. Most of the document consists of examples from other countries. It is really not such a heavy document to read. It discusses various options in terms of constitutional law, organic law, ordinary statute and so forth. It also details the sorts of provisions which might be considered for inclusion in the constitution. Bills of rights are not uniform. They vary from country to country. Some countries have very wide provisions and some have quite narrow provisions. Most countries now have some form of a bill of rights. Australia is an exception to that rule.

Mr HATTON: The sort of things that are talked about in here are: the right to life; torture, cruel or inhuman or degrading treatment or punishment; slavery; rights to liberty and security of a person; the rights of detainees; imprisonment for contractual defaults; freedom of movement; the right to a fair trial; retrospective offences and penalties; the right to privacy; freedom of thought, conscience and religion; freedom of expression; freedom of assembly; freedom of association; the right to participate in public affairs; non-discrimination and equal protection of the law; the right to own property; the right to fair compensation for arbitrary deprivation of property; the right to freedom from arbitrary or unreasonable searches, entry and seizures; equality of the sexes; the rights of the child; the right to petition government; the right to trial by jury; the right to freedom of information; language and cultural rights of minorities; administrative rights and natural justice; and the right to education. It raises those sorts of questions.

You might say that you do not need some of those things in a bill of rights. However, there might be other areas where you might say: 'Well, it would not matter what circumstance existed, I would never want a government to have the ability to interfere with these rights of mine.' If you feel strongly that under no circumstances should any government be in any way able to limit or control certain individual or collective rights, you ensure that the constitution contains an appropriate limitation. That is what a constitution is about. It is part of the fence you build around government. Different people have different ideas about such matters and that is why we really need to get feedback on it. I can tell you that there are different views within the committee. There are a few things to think about, aren't there?

Do any of the ladies have any issues to raise or questions to ask?

A witness: Not yet.

Mr HATTON: Okay, we might bring the recorded session to an end here.

CHAPTER 2
HANSARD TRANSCRIPTS OF PUBLIC HEARINGS
BARCKLEY REGION

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

TENNANT CREEK — Wednesday 6 July 1988

PRESENT:—

Committee:

Mr Hatton (Chairman)
Mr Ede
Mr Harris
Mr Lanhupuy
Mr Setter

(Absent overseas):

Mr Smith

Appearing before the committee:

Ms Kay ROSE
Mr Robert Bruce REYBURN
Ms Joan SMALL
Ms Janelle KARRIGER
Mr John HICKEY

EDITED TRANSCRIPT

Issued: 12 August 1988.

Mr HATTON: Ladies and gentlemen, I will declare this meeting of the Northern Territory Parliamentary Select Committee on Constitutional Development open for this hearing in Tennant Creek and welcome those who are present. We have been advised today that we are due to receive submissions from the Julalikara Council whose representative was to be here at 5 pm, and the Tennant Creek Council Town Council. Neither of the people who are to present those submissions has arrived at this stage. However, we will proceed anyway and hope that they arrive in time to make their submissions.

In the meantime, I must advise that Mr Tuxworth, the member for Barkly, was to make a submission. He has responded, and I think it is appropriate that I read his letter into the Hansard record. The letter is dated 6 June 1988 and is addressed to Mr Gray, the executive officer of this committee. It reads:

Dear Mr Gray,

I regret that I am unable to attend the Tennant Creek meeting on constitutional development tonight as I have prior commitments in the Gulf region with my constituents and, as people are coming from a long way away, it is impossible for them to change their arrangements at this late stage.

I only received the letter advising me of the meeting on 29 June some time after I had made firm arrangements to be in the top end of my electorate and, as the material on the constitution has been with me only a few days, I have not had time to study it.

Aside from my own case, I would submit that it is totally unreasonable to expect lay people, who are not au fait with the issue of constitutional development for the Northern Territory, to read and digest the government's 170 pages of technical notes in the few working days before this meeting. If the response to the public meeting in Tennant Creek tonight is disappointing, it could well be that the community has not been given sufficient notice about the meeting or time to consider the papers prepared.

On the basis of the short notice given, I would have to assume that the people of Tennant Creek will be given the opportunity, at a later date, to have further discussions on the contents of the documents presented at this meeting.

Yours faithfully

Ian Tuxworth

Member for Barkly

I must take the opportunity to respond on behalf of this committee to that letter and I do so in this sense. During the last week, 3 documents have been circulated. One is titled 'A Discussion Paper on a Proposed New State Constitution for the Northern Territory', the second is 'A Discussion Paper on Representation in a Territory Constitutional Convention', and the third is 'Information Paper No 1, Options for a Grant of Statehood'.

Those 3 papers were tabled in the Legislative Assembly of the Northern Territory in October 1987 together with a tabling statement. They were circulated and were available to all members of the Legislative Assembly, of which Mr Tuxworth was a member. In addition to that, every MLA was provided with a 10 or 12 copies of each of the documents to circulate within his or her electorate to ensure that they were available for people within the electorates to study and make comment on.

In the period since October, there have been public notices seeking submissions from the public generally on matters associated with the development of a constitution and on these papers. A public notice was placed in the Tennant and District Times on 24 June advising of this meeting being held. In addition, this committee circulated these papers to a number of people to provide yet further communication with the community. A number of other organisations throughout the Barkly electorate were contacted during that period.

Therefore, I must refute totally the suggestion, firstly and most importantly, that the member for Barkly had not known of these documents until a few days ago as he was a member of the Legislative Assembly and received copies when they were tabled in the Assembly at the end of October last year. As the local member, it was requested by this parliamentary committee that he take the opportunity to make that information available to people in his electorate so that they could inform themselves and assist this committee of the parliament in the performance of its job. We do apologise for the relatively short notice given to people in the Barkly area which may have affected their ability to make contact.

This committee is charged with a very complex and difficult task, but it is one that is critically important to the people of the Northern Territory. Our job is to develop a recommended draft constitution which we are to present to the Legislative Assembly along with all the discussion documents, submissions and comments that we receive from the community in a process of community consultation. If that is approved by the Assembly, that will then be forwarded to a constitutional convention of Northern Territory people. We are also seeking views and submissions on the construction of such a constitutional convention to ensure that it is as representative as possible of a wide cross-section of views and interests throughout the Northern Territory.

That constitutional convention will be charged with the task of reviewing that draft document and approving, amending or adjusting it as it sees fit, in order to prepare a document which will be presented to the people of the Northern Territory for referendum before the final adoption of any constitution. This is really the start of that process.

For over 2 years, this committee has been preparing the background information necessary to enable people to start to address a number of the wide range of issues that are in the minds of the community about what a Northern Territory constitution should contain. This committee's job is to seek the views of the community and to endeavour to reflect those views, so far as is possible, in the draft document that it will prepare, and also to have those views to make them available to the future constitutional convention. As I said, equally, we are seeking the views of the community on how that constitutional convention should be formed.

Our meeting here today is as much a start of an awareness program about the constitution as it is an opportunity for people to present their views or make submissions. This is not a first and

only opportunity for the community to comment. We would expect that there will be further programs which will present further opportunities for people to consider the issues and the committee anticipates making further visits to the communities around the Northern Territory where, as they come to terms to the issues involved and develop their views, people will have an opportunity to bring those views forward to the committee before we sit down to finalise the committee's task of preparing the recommended draft for the Legislative Assembly.

I very much appreciate the presence of those who have come to this meeting and I trust that each of you will take the opportunity to put your views and to ask questions about what the process is, what a constitution would be and even, for that matter, why this is necessary.

The preparation of a constitution is part of the statehood program. Through this present process, we are not asking people to say that they want statehood now, or in 5, 10 or 20 years time. What we are saying is that it is a fact of life that, one day, the Northern Territory will become a state, whether that occurs now or some years into the future. The Northern Territory will not be divided between the states of Australia, it won't vanish nor will it stay forever in this present half-way house situation.

However, if we are to become a state, we will need to have a constitution. That document is the foundation. It will be the basis on which the community will determine the type of society it wants in the future. A society's rights, its responsibilities and the roles of its various elements are expressed fundamentally through the people's constitution. It is critically important that this document is prepared in a manner which will make it the people's constitution, so that it expresses the aspirations and views of the people of the Northern Territory.

This will not be a short or easy task to complete but it is one which, as Territorians, we must address so that, when the day arrives when we move into statehood, we have in place the framework to do that. A constitution will provide us with that basic framework. As I said earlier, this committee's job is to start to bring that together.

I recognise that often it is very daunting for people to start to address issues of this kind but, nonetheless, I believe it is important for all of us to turn our minds to this matter and ask ourselves how we want to see the future Northern Territory structured, what sort of a society we want and how we can best provide the basic framework and the rights and the responsibilities of the citizens of the Northern Territory. Determining that happens to be one of the tasks of our generation. It is a unique task. It is not likely to happen again. It has not happened in this country for nearly 100 years. This meeting provides the opportunity for people to start to find out about it. This committee is here now to receive whatever views people have on this and to address them.

Would you like to add a few words at this stage, Brian?

Mr EDE: Certainly, Steve.

I would like to emphasise the essential difference between the work of this committee and the decision on a date for statehood. There are people who believe that states are an anachronism in Australia and that, in fact, instead we should have a unitary system with a federal government and some form of regional assembly. However, the pragmatic fact is that, if that were the eventual

structure of Australian government, it would not occur in the short term. Probably, we will be moving towards statehood before that happens.

Given that argument, for people to say that they do not believe that statehood for the Territory should occur 5 or 10 years down the track, or even much later or for them to say that they will not become involved in the constitutional development process would really be for them to cut themselves off from a very real opportunity to assist in deciding what is to be the nature of the society that we will live in in the Northern Territory. This is an historic chance, it is something that people in the Australian states had the opportunity to do well over 100 years ago.

Generally, in that period in Australia and, in fact, around the world, with the very noted exception of the United States of America, most states tended to use a constitution as a simple document which established the basis of their institutions. With the exception, as I said, of the states in the United States which used Bills of Rights and things like that which were incorporated into the constitution at a very early stage in order to talk more about the nature of the society, the powers and functions and the rights of the people that lived in the state.

The people of the Territory must decide whether we are to have a narrow constitution or a broad constitution. What types of safeguards do we wish to include for the protection of our citizens? What safeguards do we wish to put in to reflect the special nature of Northern Territory society where we have a large Aboriginal population which is still a minority within our population? How do we ensure the rights of minorities? How do we ensure the rights of the majority? These are issues which we will have to look at in this process.

In no way do I see this as being the last time that this committee will meet in Tennant Creek. Because this process is a 'once off' exercise, if I can put it that way, it really needs to be worked on very carefully. In many ways, what we are involved with at the moment is a consciousness-raising exercise. We are trying to get people to recognise that this is serious, it is important and it is going to happen. At this stage, whilst the committee is holding this present round of meetings in Territory centres, we are seeking to get the message across to people that this is not something which can be left to the politicians to work out in Darwin or behind closed doors in party rooms. It is something which belongs to the people, and the people should be involved in it. At this point, if we are able to clear up misconceptions and obtain some initial ideas from people as to how they see either the process itself developing or the final result, I think that the committee will have done its job.

While we differentiate between the fact of statehood and the constitution, there will be things that people will want to bring in to discuss and, if people wish to talk about the timing of statehood, we will take their views on board. People may wish to talk about the terms and conditions on which we should go into statehood. That may reflect their views on the number of senators we should be entitled to have. Should we hang out for the Tasmanian option? Tasmania has a certain number of House of Representative seats and the full numbers of senators even though, on a population basis, it was nowhere near being able to justify those numbers. Or perhaps we should establish a formula which, over a period of time, will take us to that number of senators without that entitlement being based on a population change. Those are some of the issues that we need to look at.

People may wish to talk about the options for achieving statehood. There is the option under section 121 of the Australian Constitution where the federal parliament actually makes that

decision. The other option is to go to a full-scale amendment of the Australian Constitution through a national referendum. Some people have said that, unless we follow the whole referendum route and obtain an amendment to the Australian Constitution to include us as a state, we will become but a 'Clayton's state' because of the very fact that the federal parliament made the decision. Some very learned people have said that would not apply because, under section 121, the parliament itself can proclaim new states.

Those are issues which people may wish to address or they may wish to confine themselves simply to the very nature of how they will feel themselves living in this new society and what their wishes and aspirations are for the society that they and their children will be living in, here in the Northern Territory. I do not think that a constitution is something which we should leave to constitutional lawyers to play around with. While we may send things off to them for decision and for advice every now and again, the real thing is that it is our constitution, and these meetings around the Territory are to provide the opportunity for people to be able to say what sort of society they want to live in.

At this meeting, even if people have not made formal submissions at this stage, it looks as though we may have time for people to come up, give their names and say whether they are here as individuals or to represent organisations, and make their views available to us. Some of you may wish to ask questions about our views and the views that the committee has received so far from other people.

Mr HATTON: I would like to make one other point. There may be other issues people may wish to raise associated with the general question of statehood. Whilst we are not formally here for that purpose, certainly we are quite prepared to address any specific issues associated with the general question of statehood that people may wish to raise.

Rick, do you want to add anything?

Mr SETTER: Thank you, Chief Minister.

The Northern Territory was governed by remote control for 100 years. In 1978, we finally achieved self-government, and that was quite a milestone in the history of the Territory. There is no question about that. Those of you who lived here in the years prior to 1978 would fully understand the lack of development and the frustrations that were evident among the community as a result of being governed by faceless people far away in Canberra.

But, in the 10 years since 1978, since we have had a Legislative Assembly comprising members elected from within our own community, enormous progress has been made. We have only to look around the Territory to see what has happened. Things went along very well for a while but, about 4 years ago, the Memorandum of Understanding that we thought we still had with the Commonwealth was disregarded, it was virtually torn up and, since then, our privileged position, our sweetheart arrangement with the Commonwealth if you like, has been gradually dissipated. It has been eroded away.

Mr HATTON: It is gone.

Mr SETTER: As the Chief Minister has just said, it is gone. It is a whole new ball game now and the end result is where we find ourselves today. We are funded basically under the same arrangements as are the states, and I am sure that the Chief Minister can explain that in detail. No longer is there any advantage in us remaining as a self-governing Territory. In my opinion, the time has come for us to move further down the line to greater constitutional development. Of course, at the end of that road is eventual statehood.

In 1985, the Chief Minister of the day established a select committee of the Legislative Assembly to develop a strategy to work towards further constitutional development and, here we are in 1988, several years later. One might well ask what has been achieved. That has certainly been asked of me. However, the reality is that there has been an enormous amount of homework put in on researching our path to constitutional development. It is a very complex matter. There have been officers, and some of them sit on my right here this evening, who have spent these several years working on that very issue. Although its membership has changed over that time, this committee has met on very many occasions and, as a result of that, a number of papers have been produced. They have been collated and appear, in a condensed form, in those documents there.

I will close by saying that, in my opinion, it is essential that we move down this path towards statehood as quickly as we possibly can because I believe it to be in the best interests of all Territorians.

Mr HARRIS: Mr Chairman, I would like to make some brief comments, not so much about the issue of constitutional development as such here, but to emphasise the need to generate interest in the community and to encourage people to come forward and make comment to this committee.

I take the points made by Brian and yourself. One of the concerns that the committee has is that people may be frightened away from coming forward and making comment because they feel that these papers, as Rick has said, are too complicated and, in consequence, only a few people will indicate their interest in relation to the constitution itself. I believe that, as a committee, we are being educated as we move around. It is very clear that we need to generate that interest. I believe that we need to broaden our approach, Mr Chairman, so that we can stimulate that interest. It is important that we encourage as many people as is possible from the communities that we visit to come forward, to listen and to question us on a whole range of issues relating to the matter of statehood. I think it is very important that that does occur.

Also, I think it is necessary for the committee to advertise not only through the printed media but also over radio and television in order to get the message out into the community that this committee is moving around and that we do want people to come forward and give evidence to us. Only then can we really obtain the views of the people in the various communities so that our final constitution will reflect the views of the people generally, and not just those of the few who are particularly interested in the issue of constitutional development.

I would suggest that the members of this committee have learnt something in the last 2 days and that is that we need to broaden our approach to the whole exercise so that people are not saying that they have not had enough time to read the material forwarded to them and that they do not know what this is all about. We want people to come forward. We want them to discuss the issues, and we need to take that on board as a committee.

Mr HATTON: Thank you very much. I will call for submissions in a moment. I notice that the representatives of the Tennant Creek Town Council are here and I welcome them.

On the table over there is a series of booklets, and I invite everybody present to take the opportunity to take a copy of them away with them. Some of them make rather heavy reading but also very interesting reading in many ways and, if each of you takes the opportunity to get them, it will start to give you an idea of the breadth of the range of issues that we need to address.

Right now, I invite the representatives of the Tennant Creek Town Council to come forward and present their submissions. Kay, please come and talk to us. Please, for the purposes of Hansard, take the opportunity to introduce yourself and indicate who you represent.

Ms Kay ROSE: My name is Kay Rose. I am here to represent the Mayor and aldermen of Tennant Creek Town Council. I have not come to present a submission but, as you invited people to do before, to obtain some facts so that we are in a position to prepare one. The council very much wishes to be part of this process, but I think members of the committee are all aware that ours is a fairly new council at this time and we are working on it.

As I listened to you speaking, my thoughts followed 2 lines. Firstly, yes, we are moving towards statehood, and we must have this document. The second was that this is another clipping of the wings of the free spirits who made this Territory what it is today. Every step we take does confine us a little I feel.

I would ask these questions for our information and for that of other people who are here. Can you tell us, do the constitutions of the Australian states differ greatly from each other, and will ours differ greatly from theirs?

Mr HATTON: There are a number of differences. Most of those constitutions were written a century or more ago and they reflect very much the times that existed then. There have been some amendments made to them.

In preparing the discussion papers here, we have included much of what is in the other constitutions, but have also addressed a number of the more modern trends that are occurring in constitutional development. In our process, we examined every state constitution in Australia, that of New Zealand and a number of other overseas constitutions including those recently made overseas, and extracted all the elements in all of those and put them all together to give as broad a cross-section as we could. This documentation does not necessarily reflect the views of this committee; rather it presents a series of options for people to look at and say: 'Well I like that and I don't like something else'. Really, we do not have a clear picture yet of where we are going.

Ms ROSE: We live in a time of great social change and, personally, I am very alarmed when I read stories about children being allowed to divorce their parents and issues like this. Will the committee address these sorts of issues in this lead up to the preparation?

Mr HATTON: Issues of that kind are generally dealt with by way of legislation rather than through constitutions. I might add that I am as alarmed about such things as you are.

There is a view held by some people within the community that there should be a Bill of Rights or something equivalent to that. Other people do not think that one should be in there but that that aspect would be better dealt with through the common law as it generally is in Australia now. We have raised that issue for open debate.

Ms ROSE: There was another point we touched on briefly and lightly at our council meeting last night. If the Territory community said: 'We want written into our constitution words to the effect that we have the right to bear arms', how would the government and your committee feel about that sort of statement?

Mr HATTON: It will be the people's constitution and, whilst I might not approve of that if, in the end, the people of the Territory wrote that in through their constitutional convention and the referendum, that would be part of the constitution.

Ms ROSE: So it really will be a people's document when it is finished?

Mr HATTON: Yes. The process is not one of politicians passing something through the Assembly. It will be done through a constitutional convention of Territorians who will prepare the final document to go on referendum to the people.

Ms ROSE: Bearing in mind that we live in a strongly multicultural community in the Territory, are linguists and interpreters out there going through the same exercise with all the ethnic groups throughout the Territory?

Mr HATTON: Our committee itself will be travelling to some 60-odd communities throughout the Territory this year and speaking with them. That is just the first run through. We will be organising for the field staff in the Office of Local Government also to be available to speak with people in the Aboriginal communities. Those are the communities with the largest numbers of people who do not speak English. Our indigenous people have a very particular interest in a number of issues associated with a constitution and statehood. Obviously, there are other ethnic groups which we will need to make contact with and we are still refining how we are to get through to all of the groups. But, yes, the aim is to get to as many groups as possible.

Ms ROSE: When you are looking for submissions, can we address real housekeeping issues like this as well as the rights that we would like to see included to protect our community?

Mr HATTON: Yes. The door is wide open. Also on how you would see a constitutional convention being structured. There is a book here to give you some ideas on it.

Ms ROSE: You know, that is something I have never thought about, which probably goes for about 98% of the Territory community.

Mr HATTON: Should we have an elected convention or representatives appointed or some combination of that?

Ms ROSE: There is such a widespread and isolated ...

Mr HATTON: That is right, and what size should the convention be? This document gives a few ideas which, at least, will start you thinking about it.

Mr HARRIS: Kay, the other thing to point out is that this is really an information gathering exercise as well. Many people are misinformed about the cost. The first thing many people say is 'Oh, it will cost us too much'. That information is available ...

Mr HATTON: Or it will be shortly.

Mr HARRIS: ... and you will find out that that is not the case. People need to be informed because the whole issue of statehood is not one where a government says: 'You are going to statehood', end of the story. It has to come from the people to the government. We believe that, if the people are informed of the facts, that will be the case. People will start to show an interest and they will see the benefits that we can obtain by moving towards statehood which we cannot receive as we are at the present time.

Ms ROSE: I think probably the public interest in your portfolio and in recent legislation in the education area must assure you that there will be public comment and interest in it once people become comfortable with the idea.

Mr HATTON: Once they come to grips with the issues, then they will have a view on those issues, you can guarantee that.

Ms ROSE: Yes. I have never known the Territory community not to make comment on things.

Mr HARRIS: We should perhaps include it in the education bracket ...

Ms ROSE: Put it in the Education Act, and you'll be right!

Mr HARRIS: and generate the interest.

Ms ROSE: Really, I don't have a great deal to offer at this time, but I can assure you that, should you come again, there will certainly be a response in writing from the Tennant Creek Town Council. Certainly, will be forwarding comments.

Mr HATTON: It would be of great assistance if the council were to prepare a written submission and forward it to us so we can take that into account. Then, when we come back, at least we shall be that far ahead in terms of being familiar with the basic submission from the council and can build on it. The submission can be made verbally or in writing, either way. That does not matter.

Ms ROSE: But it is better in a written form. Will you be publishing submissions at some stage so people can read the comments made by others?

Mr HATTON: Yes.

Ms ROSE: That is a good idea.

Mr HATTON: There is another issue that the council may wish to address. One of the questions that is asked concerns the issue of constitutional recognition of local government in a state constitution, and the nature of that recognition. You know a proposed sort of Clayton's recognition is being proposed to go into the federal constitution. The question is whether there should be some form of representation in this. The Alice Springs Town Council made submissions on that to us yesterday, and will probably make further submissions on that. It may be an issue your council would be interested to follow through on.

Ms ROSE: Fine. Thank you for your time.

Mr SETTER: Kay, there are a couple of things that I would like to raise with you.

With regard to a Northern Territory constitution, after receiving all the submissions, this committee will draft a constitution which will be tabled in the Legislative Assembly for consideration. That will then go to a constitutional convention of Northern Territory people comprising representatives of various interest groups and, following that, it will be put before the Territory people by way of a referendum.

Mr HATTON: After that.

Mr SETTER: Yes, after the convention it will be put by way of referendum to the Territory people. Even after that is approved, it will have to be submitted to the Commonwealth or the federal parliament.

Mr HATTON: No, it doesn't.

Mr SETTER: They have to approve ... ?

Mr HATTON: No.

Mr SETTER: Could you clarify that point, please Graham?

Mr NICHOLSON: It supposes that the Commonwealth act would not contain the constitution within it. That it could be referred to (inaudible) but we would not be granted statehood if the Commonwealth had some violent objection to something.

Mr SETTER: That was the point that I was trying to make, that if the Commonwealth disagreed with our constitution, it would not pass the act through parliament enabling us to achieve statehood.

Mr HATTON: Could I just address the questions: why a constitution, and why do we want to get the constitution ahead of statehood?

The Australian Constitution provides that the Commonwealth has no right to interfere with a state constitution if it exists at the time of the creation of the state. There is some question that, if the constitution came after the grant of statehood, there may be some capacity for the Commonwealth government to make some changes to or enforce some changes to that constitution. That has certainly not been settled as a question of law, but it creates a question mark. I do not believe

anybody, particularly anyone in the Northern Territory, would countenance a suggestion that, as a state, we could have the federal government deciding to change our constitution. We believe very much it should be a constitution of the Northern Territory people, and approval of it should come from the Territory people and nobody else.

Ms ROSE: Maybe that is why they want the right to bear arms! I think that, next time, we will have more to offer from our council.

Mr HATTON: Thank you very much, Kay.

Mr HARRIS: We will get education involved, Kay.

Mr HATTON: Are the representatives from Julalikara Council present?

Mr REYBURN: There are no representatives from Julalikara Council here, but John Havnen and myself are appearing in our personal capacity.

Mr HATTON: John hasn't arrived yet?

Mr REYBURN: He has not arrived yet, no.

Mr HATTON: Do you want to speak? Please come forward. The floor will be open to anybody, once we get past the formal submissions. Everybody will have his say.

Mr HATTON: Thank you, Mr Reyburn. It would be appreciated if you would just introduce yourself. You mentioned that you are appearing on your own behalf.

Mr REYBURN: Yes. My name is Robert Bruce Reyburn. I am a cross-cultural consultant. I live in Schmidt Street in Tennant Creek, and I am appearing in a personal capacity. I do not have a written submission.

Mr HATTON: That is fine.

Mr REYBURN: In fact, I do not have anything to say at any great length. I hope that the things I do have to say will be pertinent to the purposes of this committee.

There are 2 key areas that I feel moved to talk about. One is the question of assent to legislation, which is contained at page 5 in one of the discussion papers. The other point I would like to address relates to examples of human rights from outside of Australia, the Universal Declaration of Human Rights, that sort of thing - the international covenants question.

I should say at the outset that I find the concept of a new state an exciting one with the proviso that it is a new state and that, when we look at the old states, which we have the benefit of not being one of at this stage, we see that they are the shadows or ghosts of the earlier colonies in Australia. By and large, those colonies, particularly those on the east coast and including Tasmania, were founded in acts of human cruelty by one group of human people to another group of human people. I refer there as much to the treatment of convicts as to that of the indigenous people who existed there when the Europeans arrived. I think also of the cruelty done to those people who were

expected to carry out orders in their positions as members of the militia who, in turn, were brutalised themselves by the brutalising treatment they had to give. So, we have the benefit of not having inherited the boundaries of previous colonies, and we need to maximise our opportunities in this life.

The history of development in Australia is such that the Commonwealth did not come into being until 1901 and, in 1911, the state of South Australia transferred the Northern Territory to the Commonwealth. That was an act of great responsibility because it placed the well being of the people living in the Northern Territory in the hands of a remote population centre.

I am particularly committed to the concept of strong local government and, when I hear the argument of the Northern Territory government that being ruled by remote control from Canberra is not a good thing, I think that, in Tennant Creek, we are particularly aware that being ruled by remote control from Darwin or Alice Springs is not a good thing. I will be returning to the question of local government in connection with the question of assent to legislation.

On the question of international law, which I will address first, the material compiled by the select committee at page 117 of the large report, makes reference to some of the comprehensive statements on human rights that have been passed through the collective wisdom of nations and ratified by various nations, but not all nations, and which include the Universal Declaration of Human Rights, the Bill of Rights of the USA and the Canadian Charter of Rights. I suppose the latter 2 are domestic matters.

I would like to draw to the attention of the select committee the Convention for the Elimination of Genocide. As we look around our own surroundings at this time, it is often said that we will wake up one day and find ourselves in Asia. I think it is piccaninny daylight already. When we look at Vietnam, we see continuing economic warfare being waged against those people. We see the horrors of Kampuchea. We look at the treatment of people in the Moluccas, East Timor and Irian Jaya and we are aware that the question of genocide has not been fully distanced in contemporary times.

My training is as an anthropologist and, at some time in the very distant past, one of our ancestors discovered that he or she had the ability to pick up a weapon and kill something. That is a tremendous power, and that tremendous power has to be balanced by mechanisms that stop that power from running berserk. I think Aboriginal life has evolved such mechanisms because that power can be turned on other human beings. We need some means to control that. I guess the Convention for the Elimination of Genocide has not been particularly successful, but perhaps it could be included in the required reading so that those who are interested can form some idea about it. I would like to read the first 2 articles of that into the record.

Article 1 says that the contracting parties confirm that genocide, whether committed in time of peace or time of war, is a crime under international law which they undertake to prevent and punish. Under Article 2, in the present convention, genocide means any of the following acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group.

When you read through the 5 points raised as to the meaning of genocide, one of the startling things is that, through the history of Australia and the history of the Northern Territory, we would qualify, I think, on any one of those grounds not to mention the 5 of them taken together. We have a proven history of requiring some kind of mechanism to prevent that coming about in the future.

As I said, I do not have a great deal to say, but I would recommend to the members of the select committee that, in the required reading for consideration of the content of a proposed constitution, they seriously consider the future of the people who will be resident in this new state with regard to prevention of genocide and I suggest that this text, or something like it, be included in the readings of discussion papers so that a very real threat to the human species everywhere can be addressed and measures taken to ensure that its possible occurrence is minimised.

On the question of assent to legislation and local government, I refer to page (v) of the larger paper, clause (c) of B. It says: 'The Select Committee is unanimously of the view that the representative of the Monarch should at least have the function of assenting to legislation or withholding assent. The Committee differs as to whether that representative should have power to suggest amendments back to the new State Parliament'.

There are some of us who remember the 11th day of the 11th month 1975 as perhaps a day of less shame than 13 December 1975 when the Australian people voted. But we remember the implications for any elected government of being overthrown by a person, or persons, who are not subject to being elected themselves and being elected by the people. It is my view - and I don't know if anyone else holds the same view - that the proper safeguard on the passing of acts of parliament is best institutionalised by having those acts referred back to the people via organs of local or regional government for ratification. Whether that is properly done by means of a function attached to the office of a Governor or Administrator, whatever that office is to be called, something required of that person, or whether it is something required to occur directly from the Legislative Assembly to the people, is a question for debate. I think the merit of the suggestion is that it provides a very healthy check in a situation where the representatives in the House are elected 3 or 4 years apart and laws can be passed during that time which may or may not be in accord with the will of the people.

Those are the 2 major points I have to cover. A third point, which perhaps comes into international law and may belong somewhere else, is very confusing in Australia and that is the recognition of customary Aboriginal law. Much research has been done on this topic by the Law Reform Commission. It has published a mammoth volume as a result of its findings which is now apparently gathering dust on various library shelves around the place. I think we would all benefit if that were condensed in some way and made accessible so that those of us who can speak English as a first language can talk about and digest those points and be able to enter into meaningful dialogue with those of us whose first language is the language that is tied to the country we happen to be presently residing in.

On that point, I think that having come to Australia as people from England, and having demonstrated the merit of practices derived in Europe by clear-felling the trees and showing how to let the topsoil flow into the rivers and out into the sea that, when we look to the Aboriginal people we have to admit that they have a proven record of over 40 000 years, or from time beginning as

they would say, of good management of the land and of good management of life. And we have nothing to lose by giving full recognition to the place of Aboriginal law in our community.

That is all that I have to say on my own behalf. Mr Havnen did ask me to put a few points if he did not arrive here.

I am now speaking on behalf of Mr John Havnen who was to have appeared in a personal capacity. The points for the the Select Committee on Constitutional Development of the proposed new state for the Northern Territory are the following. Point No 1 relates to institutionalised disadvantage. He would have liked to raise the point that one-third of the population in Tennant Creek is Aboriginal, and that is a permanent population. Their grandparents were here and their grandchildren will be here. We have just experienced a local election here in which Aboriginal people ran a candidate. That candidate did well on primary counts, something like third or fourth. The present electoral system worked in such a way that that person was among the tailenders in the final count. That does not seem to be a very good way of introducing Aboriginal views into the management of the community in which these people live and that impacts directly upon their life.

The fact that one third of the permanent population of Tennant Creek is Aboriginal is a relevant factor also with respect to the question of the number people holding jobs. In an equitable system, if there are no other factors operating, one would expect to find roughly the same proportion of people in one group in jobs - and not just collecting rubbish but in all sorts of jobs - as you would for any other group within the community.

Point No 2, the Westminster system: I understand this report talks about the implementation of the Westminster system. The Westminster system of government, and perhaps you could call it the Westminster system of life, evolved in England. It did not have any input from Aboriginal people. Speaking for myself, Bruce Reycburn, I would say that that is a pity. I think that affairs in England would have benefited from the kind of thinking and philosophy that we find in Aboriginal life.

I will return to Mr Havnen. The Northern Territory government is seeking to transplant that system into the lives of Aboriginal people here. I suppose, as we look at New Guinea at the present time, we could wonder about the wisdom of that. That is to say the eastern part of New Guinea.

Point No 3, the education system as presently constituted is part of the Westminster system and it reinforces the wrong ideas, or the negative stereotypes, that non-Aboriginal people have of Aboriginal people. That is because it gives full credence to philosophies of evolution and Darwinism that promotes to the forefront of human evolution those who have developed their material culture and demotes to the backside of evolution those who have not developed their material culture. The question has not been asked, even by anthropologists by and large, whether or not those people who were not developing their material culture were very busy developing some other aspect of their culture. There is evidence, though it is not highly-developed, that Aboriginal people have the most highly-developed, non-material culture on the planet.

There is great room for investigation, and discussion with Aboriginal people. Mr Havnen thinks that Aboriginal studies should be included in schools for the instruction of European people in the same degree as there are English or social culture studies of any another kind. He believes that

Aboriginal languages should be taught, and that the study of Aboriginal culture and language should start from primary school in a simple, gentle fashion and proceed to more specialised studies at the secondary level.

Point No 4, the final point, of the indigenous people Mr Havnen says that the expression 'second-class citizens' is not appropriate, neither is the expression 'third-class citizens' when accurately characterising the position of Aboriginal people in Australia. He says 'fourth-class citizens' is a more accurate description of the position Aboriginal people hold in Australia at present, including the Northern Territory, and that it will reflect to the credit of other Australians when Aboriginal people hold the position of first-class citizens. That has to change.

Mr HATTON: Thank you very much. You have raised a bevy of points and I hope we can cover a few of the matters that you dealt with in the course of your discussion.

First and foremost, I would like to deal with the issue of the executive power that you referred to which, in fact, goes from page 10 of the document. Those first pages with the Roman numerals are actually a summary of what else was included. You will note there that it is referring specifically to the nature of our government. There are limitations on states in that the Australian Constitution does require the continuation of the monarchical system of government. That is part of the Australian constitutional structure. As such, the representative of the Crown is the executive in the sense that there are 3 elements of government. These are the executive which, in a republic, is the President. In our form of government, it is the Crown. There is the legislature. In our system, that is the Legislative Assembly here and the federal parliament nationally. The third arm is the judiciary. Those 3 form the structure that this refers to. The representative of the Crown is the executive. That is not a question of choice. In the end, the executive is the organ of government which approves or disapproves legislation. In fact, it passes legislation on the advice of the legislature.

The question we have been addressing in this is that, if there is a power to assent then there must be a power to withhold assent. Of course, what flows from that is a question that arises, whether the representative of the Crown could, for example, recommend amendments and, historically, there have been occasions when that process of recommending amendments has avoided very embarrassing situations for the legislature. Those are questions that we are raising.

The concept of the legislature of the Northern Territory being required to obtain the assent of the local government level of government is an interesting one. I really had not thought of it. It would be like the federal government being required to get the approval of all the states before it could pass a law. I guess that would be an equivalent analogy.

Mr REYBURN: Yes. The federal government itself could be tied in this way so that local and regional governments could be required to ratify acts that it passes.

Mr HATTON: That would be the equivalent. Then the question arises - I am using words which I know are emotive and have connotations which I do not intend they should have - should the superior government ask the lower level government for approval to do something? It is an interesting concept and I would like to look at it further. I can see significant difficulties in trying to get any legislation through.

Mr REYBURN: One of the consequences is that it would be slower.

Mr HATTON: It might almost be impossible.

Mr REYBURN: I do not think it would impossible. It would be slower, and that might be a good thing. The other point that comes up is, I suppose, which is the superior level of government?

Mr HATTON: Yes.

Mr EDE: There is a point I would like to raise in relation to that. If the referral was made back to the various local and community governments for a decision, would you see that as being a majority decision amongst those groups?

Mr REYBURN: There are 2 ways in which I see you could go: one is a majority decision. The other is that, if local governments felt strongly enough about it, they could say that, if they did not ratify certain legislation, it would not apply to their area.

Mr EDE: Going on from that though, whatever process is gone through to reach a decision eventually, there would still have to be a formal method of ratification. Under every system of government that I can think of there is a person somewhere who finally puts his stamp on legislation and says: 'Righto, this has been through the procedure, everybody has okayed it and it is now in place'. It would seem to me that, even under that system, in the final analysis it would still be necessary to have somebody endorse the fact that legislation had passed through the system, been agreed to and had become law. This would simply be substituting a referral from the legislature to that person by a referral from a legislature to local government back to a person who would be the person who would put the mark on it eventually.

Mr REYBURN: When it comes to people putting marks on things, their hands can be tied in various ways and one way is that, if such and such is done, then that mark will be applied but, if such and such is not done, that mark will not go on. If that mark does not go on, nothing happens. If that person does not perform his or her duties, the person is removed from office.

Mr EDE: One of the proposals under this concept is that the representative of the monarch - and in talking to that, I think that we should realise that we are talking about complying with the Australia Act and ...

Mr REYBURN: You have a benefit over me there. I have not read the Australia Act.

Mr EDE: Basically, it sets out the way in which all states and the federal government have to proceed in order to obtain that final ratification.

The Australia Act could, for example, be amended. It would probably require a constitutional amendment. I am not quite sure about that. Such an amendment would actually mean that that person, and it would still be the same person, that put their mark on the paper could be an elected person, whether elected from the parliament or elected by broad representation. There are a number of Westminster systems around the world; for example, in India and Singapore. Quite a number of members of the Commonwealth, while they are still members of the Commonwealth and

recognise the Queen as being head of the Commonwealth, do not recognise the Queen as being the head of their state. They elect a president or something of that nature by whatever title.

For us to do that at the Northern Territory level would be impossible because, no matter what we draw into our constitution, we still have to comply with the federal constitution in the broadstream and so we would still need to have somebody at that final point, who is seen as the representative of the monarch even though it may not be within the ambit of the monarch to be able to actually change that person formally. It may be that that person has to be appointed and has, within the constitution, absolute limitation on their powers to say no to anything. In fact, that they have to say yes whether it is to the state, the legislature which it takes notice of or whether we set up a system where the legislature refers it back to local and community government and then that mark is put on it.

It seems to me that what you are looking at really is fitting another tier into the parliamentary system which is analogous to an Upper House which will comprise the community government bodies and local government bodies around the Northern Territory. Would that be an appropriate analogy?

Mr HATTON: Before you go on, pages 103 and 104 of that booklet you have in front of you, the discussion booklet on the constitution, in fact refer to the relevant sections of the Australia Act. In particular, section 9 as cited on page 104 says:

No law or instrument shall be of any force or effect in so far as it purports to require the Governor of a State to withhold assent from any Bill for an Act of the State that has been passed in such manner and form as may from time to time be required by law made by the Parliament of the State.

Earlier, section 7(1) says:

Her Majesty's representative in each state shall be the Governor.

The question of amendments to the Australia Act is dealt with in section 15(1) of the act, which says:

This Act or the Statute of Westminster 1931 as amended and enforced from time to time, in so far as it is part of the law of the Commonwealth or of a State or of a Territory, may be repealed or amended by an act of the Parliament of the Commonwealth, passed at the request or with the concurrence of the Parliaments of all the States and, subject to subsection (3) below, only in that manner.

Subsection (3) refers to amendments to the Constitution of Australia. So, it would need the assent of every parliament of every state of Australia to pass any amendment to the Australia Act, or a constitutional amendment passed by a referendum of Australia.

Mr REYBURN: Well, that would be another example of the Territory showing the way.

Mr HATTON: We are bound by that also.

Mr REYBURN: Yes.

Mr EDE: The point that I want to make relates to one of the things that Bruce was saying. Within a constitution that is something that it is possible to do. Whether we want to do it or not is another matter. However, it is possible to do it if a person is still retained at the top who is formally the Governor, but who has no rights but to assent to legislation that has gone to the various community and local governments for their assent.

Mr REYBURN: I am not a constitutional lawyer.

Mr HATTON: I am really trying to indicate the limitations that exist as a consequence of things like the Australia Act, the Statute of Westminster and the Australian Constitution.

Mr REYBURN: I think the Statute of Westminster was passed in about 1947?

Mr HATTON: 1931.

Mr REYBURN: 1931 was it? It is a recent act. It is a new act and, as we know with legislation such as the Land Rights Act, people have problems with them and such acts are amended from time to time.

Mr HATTON: As I have said, the Australia Act can be amended only with the assent of every parliament of every state in Australia.

Mr EDE: Or by constitutional amendment.

Mr HATTON: Or by amending the Australian Constitution. I am really just indicating the sort of limitations we have to work within in this area.

Mr REYBURN: Great.

Mr HATTON: The point is valid and if it were felt by the community that requiring the assent of local and community government or something of that kind were needed, presumably that would then have to be dealt with prior to final assent by the Legislative Assembly for forwarding then to the Governor.

Mr REYBURN: Yes, well that might be a workable mechanism.

Mr HATTON: It would be the only workable mechanism, if it were felt that it would be desirable. I must say that I have reservations about it. I think it would make for a very unworkable state.

Mr REYBURN: It might make for a very healthy state in the long term.

Mr HATTON: It is very idealistic but often ideals are totally impracticable. I am expressing my own personal view. I would certainly be interested in examining that issue further and I am sure the committee will do that.

Mr REYBURN: I can't ask for more than that.

Mr EDE: As you are developing your ideas on this and finding other people who have considered it, I would be quite happy if you were prepared to put something in writing about how you would see it working. It would be of interest to know how you might wish to develop it further and to get some idea of how you would see things. Whether you are talking about a simple majority of the community and local government or what should apply to what areas of the state.

Mr REYBURN: I will certainly try to do that, but one is always limited by resources and resourcefulness.

Mr HATTON: If you do have any particular questions, you are welcome to contact the committee and we will see what we can provide for you. That is part of the committee's role and function.

Mr REYBURN: Thank you.

Mr HATTON: Thank you very much.

Would any other people like to make any submissions or comments, or ask any questions formally? If not, perhaps we could throw the meeting open for people to raise whatever issues they would like to raise.

Ms JANELLE KARRIGER: My name is Janelle Karriger and I am representing myself. I am an Australian. I am not a European or anything else. I did my last couple of years of high school here and the gentleman on your right there was speaking before about how far we have come since self-government and everything. We have lost a great deal because of self-government. We had much more freedom before. When I went to school, all the other kids were all just kids. We were all pretty much the same and we all did much the same things. Now, to the ones I went to school with, I am white and they are black. I don't think that does a lot for people. However, we are moving towards statehood and our new constitution and, if it is to be the people's constitution, that is because it will develop from the people's ideas and views, isn't it?

Mr HATTON: Yes.

Ms KARRIGER: What guidelines do we use now, because you were saying the constitution will be ... ?

Mr HATTON: We operate under what is known as the Northern Territory (Self-Government) Act, which is an act of the federal parliament. It is the closest equivalent we have to some form of a constitution. It does not have the strength of that. It can be amended or adjusted. Most of the powers of the Legislative Assembly, for example, are spelled out in regulations under that act and are capable of being changed merely by amending those regulations. Such amendments don't even have to go to parliament, except through a committee stage and what they call a 'non-assent' period. It is not a matter for debate in the House. So, we exist under an act of parliament, not under a constitution. We are not a constitutional body as everywhere else in Australia is. That is the fundamental shift that occurs with statehood.

Ms KARRIGER: Which we have to do.

Mr HATTON: Yes.

Ms KARRIGER: I can see we have to go forward. Yes, I agree with that. It is a shame we have lost so much really along the way. We are gaining, but we have lost a lot. It is called progress. I know it is.

Mr HATTON: Could I just say that the issue of black, white, Aboriginal and non-Aboriginal divisions have nothing to do with self-government. They are a modern development that is occurring and could I suggest they would have occurred anyway.

Ms KARRIGER: Yes, it is called progress. It has worked that way and that is the way it is.

I know that we are going forward, we need a constitution and we need our statehood and we are all looking forward to it but, along the way, there are some other issues that I find even more important: for example, how expensive our water and electricity is getting. That is just an example. It is not just a matter of young people with children trying to survive. It is okay if you are a person that can put your kids in the creche and go out to work as well. I would rather see mine grow up. But I have some friends that are retired. They are people that have been here for nearly 30 years and now there is talk about the water rates going up again. I can justify the cost of electricity. You are using it, so you pay for it. But for water it is different. Under the new system, we do pay much more money and they are talking about putting it up again. People just cannot afford it, and people like them have left because of this. They are the people that got this place off the ground in the first place. If the rest of us that are buying homes here want to live here for a long time, until we die, well we won't be able to. We will be squeezed out eventually and we won't even get to see statehood. We can put up with the cost of living and maybe even the electricity costs, but the water is beyond a joke. We need that and that is ...

Mr HATTON: I would like to pick up these points. I really understand your frustrations. I get the same thing from my wife when I go home. I think we all do.

I have to tell you that the rates in the Northern Territory are 30% below the average rate in the rest of Australia. The fact is that, because of the nature of the climate we live in, we use much more water than people do elsewhere, and that is why our bills are so high. The biggest cost of producing water to your front door is the cost of pumping it, which is the electricity cost. We are subsidising your water by some \$20m a year at the moment. I realise that that does not help you at all. It is just one of the facts of life.

Our biggest problem in both the water cost and the electricity cost is the cost of electricity, and that is a major issue facing the Northern Territory people. It is a major challenge to us and we cannot push electricity prices up. They are too high now. They are the highest in Australia. Quite frankly, if we put the electricity price up, people turn the power off and the amount of money we receive goes down, not up. We have passed that point. What we have to do is find other ways to get much larger use of either gas or electricity to get the cost of producing electricity down.

Ms KARRIGER: But our water is the big thing because we cannot survive without it. You cannot. It is okay once your trees have been in 12 months or so

Mr HATTON: If I can pull the cost of electricity down, I will pull the cost of water down too.

Ms KARRIGER: Yes, water is the really big thing.

Mr HATTON: About 80% of our cost in producing water to you is the electricity cost. It all comes back to the electricity cost structure, and we have to attack that.

Ms KARRIGER: That is all I wanted to say really.

Mr SETTER: Janelle, I have a question.

Ms KARRIGER: Yes?

Mr SETTER: You made the statement earlier that you were not very happy about self-government ...

Ms KARRIGER: I am happy, but it is called progress: it is sad.

Mr SETTER: ... and you made the comment that now, at school, there is black and white. Could you explain to me how you see self-government creating or impacting on that situation?

Ms KARRIGER: That was about the time I think that things started to change. Well, not actually right then. I think it was a bit later, about 1980 I think, when things started to change. For example, all of a sudden, many more people were coming to the Territory because, through having self-government, more people were brought in to fill the government positions and everything else, the schooling and everything else that came out of it, right?

Mr SETTER: Sure.

Ms KARRIGER: Now, many of those people are trying to do a lot of good, and that is fine, but many of them are people that come out of university. A lot of our school teachers are an example, especially around here, not actually in Tennant Creek. They cannot get jobs down south and they come up here. Because we live in a much freer society, they are more inclined to sit back and they don't really have any idea about what is going on. They sit back and they take up Aboriginal issues and say the people that have lived here for a long, long time are doing the wrong thing by them, and the majority aren't. And they are segregating people. They are not letting people live together any more.

Mr SETTER: Right, so you say that it is as a result of the population growth which has followed self-government ... ?

Ms KARRIGER: That is how I see it. I don't really know if that is what has caused it.

Mr SETTER: It is the influence of outsiders that has created this perceived division between Aboriginal people and ... ?

Ms KARRIGER: I don't really know, but the change started at about the time of self-government. Things started to change. There is plenty of work in the Territory and you can always get a job if you want one, which we can be thankful for, but I don't know if there are many opportunities for people in the Territory, white or black. It doesn't matter what colour you are or whether you are an Asian or what you are. I don't know if there is much opportunity to get ahead really, because people are bantering backwards and forwards all the time, Aboriginals and whites, instead of people just getting on with it, living and just pushing ahead and not sitting back. A lot of people are creating more hassles out of it and it is not getting any better.

People lock up their homes now. You never had to lock your house here even in the last couple of years. It has just started and it is not right. They are all supposed to be your friends and your neighbours so the people that are the troublemakers in the first place, well, maybe we should put something in the constitution so that they can get sent back to where they came from.

Mr SETTER: I would like to point out to you that matters Aboriginal, if I can use that term, come under the control of the Commonwealth government and not the Northern Territory government so, the fact that the Northern Territory government achieved self-government has had no impact on our influence or control over matters Aboriginal.

Mr HATTON: It often surprises people to find that the Self-Government Act specifically excludes control over Aboriginal affairs as one of the powers of the Northern Territory government, and they are over a quarter of our population.

Mr SETTER: With statehood, that may change because ...

Mr HATTON: It must change.

Mr SETTER: ... in the existing states, Aboriginal matters do come under the control of each state whereas here they don't.

Ms KARRIGER: How can you justify that? Yes, you can't work like that.

Mr HATTON: It is one of the things in the Self-Government Act, like the much-talked about issues of the Aboriginal Land Rights Act, the management of national parks, uranium and off-shore oil and gas, and those issues that are the subjects of major debates. There are other strange things, like Aboriginal affairs, that are excluded from the control of the Northern Territory because we are not a state.

Ms KARRIGER: So that is why we need statehood and we need our constitution.

Mr LANHUPUY: Do you have any ideas about how to overcome those sort of difficulties? This committee is going around the Territory and we will be speaking to a lot of people throughout the Territory. One of the main issues that we will be confronted with is that of the Aboriginal and white relationship with the Northern Territory.

Views have been expressed to this committee, and certainly I have heard them myself, that Aboriginal people are a bit reluctant to go forward with constitutional development towards statehood for various reasons, be they historical or whatever. If people like yourself, who are

genuinely concerned about places like Tennant Creek, Katherine or anywhere else in the Northern Territory, have ideas that could help to overcome some of the racial difficulties that we have, the committee would be pleased to hear about them. Please bear in mind that we are living in a multicultural society and that the human race, being what it is, will always have those sort of elements. But if anyone in the Northern Territory has any suggestions to make that might help to overcome some of those difficulties, I am sure the committee would appreciate hearing them.

Ms KARRIGER: I don't know if this would help towards statehood. My son attends the Tennant Creek area school and maybe 5 Aboriginal children go there. You can't have that. Look at South Africa: you can't have it. It is wrong because the kids don't understand and they don't know about each other because they are never around each other to find out. I really think that there should be about half and half or even a good third put in there.

I don't know if they all go to Kargaru. I don't have anything to do with that. But, when we went to school, we had only 1 school and we all went together and it didn't bloody well matter. That was the way it was, it was just that simple. We all learnt together, we all ate together, we ran around together. We were just all kids and we were allowed to be kids. The kids are being used now. It doesn't matter what colour or what they are; they are being used.

Mr LANHUPUY: The education system might have to be looked at.

Mr HATTON: That is for the Minister for Education to pick up.

Mr HARRIS: I have heard a very clear message. I think what you are saying is that everyone was treated the same.

Ms KARRIGER: Yes, we were.

Mr HARRIS: That is the clear message that I get but, unfortunately, as Wes has said, the reality is that there are very serious problems and there are cultural differences which have to be taken into account. I can assure you, however, that there are people who have been in the Territory for a long time that share your views, and I believe that we are all the same and that we should be the same. But, there are these differences which have to be addressed.

Mr HATTON: Anybody else?

Ms SMALL: Chief Minister, members of the committee, my name is Joan Small. I do not have a submission to present at this time but the Territory Nationals will be presenting one at a later date, and the questions that I have to ask are on my own behalf, just as a matter of information.

I have 2 questions. The first follows on from Kay's questions and Janelle referred to it briefly also. It relates to constitutions or guidelines for people to look at to help them understand what the Territory government is following. From what I have read, I understand that the committee has made many recommendations based on the Northern Territory (Self-Government) Act. The comments made about the states' constitutions confused me a little. I just wonder how the states operate under very outdated constitutions and whether they use common law extensively to get around some of the things which are outdated, and if any updates were done with the states at the time of federation.

Mr HATTON: Some are being done, from time to time, Joan. Graham Nicholson, who is our legal adviser, is the man that knows best about the details of this. There are provisions for amending state constitutions. Many of them are not by way of referendum but, in fact, where the state parliament passes amendments to the state constitution. That is raised in this discussion document. It is not what we recommend. We recommend that any amendments be done by referendum. Amendments have been made to some of their constitutions. Some of the basic structures, the origins, are there. They are very basic documents. Other people think that constitutions should be very full documents. You can look at either direction.

Graham, perhaps you would like to add some comments? You know more about the fine legal details of all this.

Mr NICHOLSON: All of the states operate under 19th century constitutions and none of them changed at all on federation. The existing constitutions continued and the existing self-governing colonies became states, but their constitutions did not change. All the constitutions are in the 19th century mould which basically just outlines the broad framework of the institutions, primarily the legislature, and very little else. They do not really read very much like the sort of contemporary constitutions which we have seen since World War II and I don't think they are really very good models to use.

Mr HATTON: They provide very little in the way of constitutional protection. The constitution just leaves all the power to the state government basically.

Mr NICHOLSON: They are all very flexible constitutions as against the Commonwealth Constitution which is very rigid. Just look at this very comprehensive referendum.

Ms SMALL: Right, may I make 2 statements based on that? First, that I would assume that we are looking at something quite different from the state constitutions and, secondly, if the Northern Territory (Self-Government) Act is a good basis upon which to start, are copies of the Self-Government Act to be made available to people so that they can have a look at what is in it, and make recommendations or put in submissions on some of that material perhaps?

Mr HATTON: They can be made available. They are available now. As with all acts of parliament, they are published documents and you can buy them through the government. I think they are about 10¢ or 20¢, they are not very expensive. They may be \$2 these days with a dash of inflation, but they certainly are available. It is Commonwealth legislation, and it is available through government publishing services, as are gazettes etc.

Mr SETTER: I think that the Government Information Office in Smith Street, just behind the Chan building, would have them.

Ms SMALL: Do you think it would be valuable for people to look at that document because, with most of the constitutional committees I have been on, you start with a basis of some kind of constitution that has some relevance to what you are doing and you work from there? It is a bit hard for people generally to know where to go.

Mr HATTON: That is what we have sought to provide with this discussion document. It deals with most of those issues, and other issues that are in the minds of the community, and it discusses the pros and cons of different elements; things that you must have, things that perhaps you should not have. I think you will find that this document itself is the best source document to work off.

The Self-Government Act has value because that is where we are now, it is what we are moving from, so it does give that sort of a foundation. I would urge you to look at this issue, and there may be other issues that come to your mind. If there are, please take the opportunity to contact the staff at the Legislative Assembly or myself as chairman of this committee and we could chase out any other information you need. We have booklets that thick which comprise an accumulation of a multitude of constitutions and it would drive you crazy if you tried to go through them, I can promise you.

I think we do have a summary of the various constitutional provisions in different acts that were produced.

Ms SMALL: I have no desire to read something that is not worth reading.

Mr HATTON: I think you will find that this will make a very good source document for you to work off.

Ms SMALL: My second question relates to the question of section 121 or 128 of the Australian Constitution. It is stated that the committee favours following the option of section 121. This may take a bit of time. It is explained in the document, but I was wondering whether the members of the committee could explain briefly the cases for and against the 2 methods of achieving statehood and the reason why they believe one course would be easier or better than the other. Is the public to have a say on which course is to be taken or can it be assumed from item 9 on page 4 that section 121 is to be followed? If it is, item 5 on that page would be of concern because it says:

the section 121 method gives rise to doubts as to the scope of the Commonwealth's power to impose terms and conditions on a new State that might place that new State in an inferior constitutional position compared with existing States.

Mr HATTON: That is covered in this smaller booklet, called 'Options for a Grant of Statehood' and that does deal with this sort of basic step.

Section 121 of the Australian Constitution says basically that the parliament of Australia can accept a new state under such terms and conditions as it deems appropriate. The theoretical interpretation of that is that the Commonwealth can say that a new state could have certain powers but not others. It may allow different powers from those of another state. Because Australia has never done this before, there are many unanswered questions of law, and we could find ourselves in the High Court several times in order to sort out some answers to those questions. For example, there is a very eminent legal view that a state is a state is a state - an area either is a state or it is not a state - and, if you are a state, then you are on exactly the same footing as everybody else which

may, in fact, limit the power of the Commonwealth under section 121 to reduce the powers of any new state. That is what is referred to in here. That is an unanswered question of law as are many of these things, but at least we have identified one of the issues that we have to deal with there.

That is the course of action recommended because, through that process, if we reach an agreement with the Commonwealth on the structure of a new state, that can be effected by the Commonwealth passing an act in both Houses of parliament, with a constitution already in place, that locks in our constitution to ourselves and gives us status. It is believed that, even though it has been done by a federal act of parliament, having created a constitutional state the Commonwealth cannot then uncreate that state. We would become part of the federation of Australia.

The other option is that there be an amendment to the Australian Constitution under section 128, a referendum of all Australia. Now that requires the federal government to agree and to pass an act of parliament which is then put as a referendum to the people. It is an extra step requiring agreement from the majority of all Australians and a majority of states. That would then vary the words of the Australian Constitution and write it into there.

Those are the 2 ways we can go about doing it. We have opted for the first method because we believe it achieves the same objective in a more streamlined manner. Either way, we have to go through the federal parliament.

Mr EDE: There is an additional element to that. I think it is the belief of the committee, anyway it is my personal belief that, under section 121, the requirement for terms and conditions would limit the ability of the federal parliament to make this a second-class state, for example, by saying that we can have only 4 senators, or something like that, until such time as we have a population equivalent to that of New South Wales and that we can work towards having 12 senators in that way. There is a belief that the terms and conditions that the Commonwealth would put in under section 121 would have to be the same terms and conditions as those that apply to the other states, so we would have to have 12 senators straight away.

There appears to be no doubt that, if we proceeded under section 128 and went to a national referendum, a national referendum would be able to grant us statehood on the basis of having only 2 or 4 senators. Constitutional change is the supreme power of the Australian people and this supreme power could be used to make us a second-class state. However, we doubt that that could be done under section 121 so, in a way, we are trying to ensure that we do get full statehood by proceeding under section 121, quite apart from the fact that it is a far more practical method than seeking a full constitutional amendment.

Ms SMALL: All right, but I would assume that if we went to a full referendum it would be to eliminate the suggestion that original states are different to states that are created. That would be one of the things, wouldn't it, that all states would be treated the same regardless of whether they were original states or not?

Mr HATTON: It may.

Mr EDE: That would be our argument, but it would be the federal parliament which would actually be passing the legislation which would propose the amendment to the Australian

Constitution to the Australian people and we would not have power over what the Commonwealth did.

Mr HATTON: That's right.

Mr EDE: For example, in its own wisdom, it might decide that it would limit us to 2 or 4 senators and put that proposal to the Australian people. Then it could run an argument that it would be ridiculous for us to have 12 senators because of our numbers and that, on that basis, we should have only 4 or something, with some sort of a possibility being raised that at some stage in the future we might achieve a couple more.

Mr HATTON: There is a recommended provision for acceptance of new states in the Constitutional Commission. That is a federal government body. It is not done through the traditional convention approach.

Mr EDE: It was prepared by the Liberal Party.

Mr HATTON: It was not! It was introduced by the Labor Party, against the will of the states.

The commission's recommendation is for the admission of new states and their numbers of Senate representatives to be based on population size. Actually, there is 1 House of Representatives seat for every 100 000 people in your population and 1 senator for every 2 House of Representative seats. That means that, for every 200 000 people, you get 1 senator with a minimum of 2. That would mean that, to get 12 senators, we would need a population of 2.5 million people in the Northern Territory whereas Tasmania is entitled to that representation with just 450 000 people. You might gather from that that some of us are somewhat violently opposed to that proposed referendum amendment.

Ms SMALL: A further comment I want to make on the situation with referenda is that, as I understand it, the referenda items which have been passed by the Australian population are those which have been put on the basis of equality. On that basis, asking for equality for the Northern Territory would have a fair chance of being passed.

Mr HATTON: Yes, that is the basis of our case for statehood. The general statehood issue is equality, and that was spelt out fairly clearly in a ministerial statement made in 1986 called 'Towards Statehood'. That has been published and is available. There are a series of other options papers dealing with a number of the issues that flow from statehood that are available also. I am happy to make those available for you to go through. They relate to land matters, mining issues and so on. A paper on financial conditions on statehood is coming out. That is a matter of some significant interest to the community.

Ms SMALL: Is it possible for ... ?

Mr HATTON: It has been delayed because they changed the rules again this year.

Ms SMALL: Is it possible for interested individuals to be placed on the mailing list for these items?

Mr HATTON: Certainly, if you would just contact us we can get the information to you.

Ms SMALL: I understand that I would probably get them anyway, but for anyone else that inquires they would be available, would they?.

Mr HATTON: Certainly, yes. We are trying to disseminate the information as widely as possible and stimulate interest and awareness.

Would anybody else like to make any comments or ask any questions?

Mr HICKEY: I am John Hickey, private citizen.

Expanding on the obvious, those people who have come here and taken the trouble to find out about this are obviously very excited by this concept of a constitution being generated by public discussion and debate. As Mr Harris has said, the problem is that people are intimidated and confused by, for a start, the title of a Select Committee on Constitutional Development. That is enough to frighten 90% of people away.

It seems to me that the other problem we have is a starting point. It is a great idea to have an open forum and introduce debate but you have to start somewhere. I would put up a suggestion that a starting point that the committee could have is to go forward and propose a simplistic concept of some sort; a proposal to the people. That would serve 2 purposes: first, it would make perfectly clear what the committee is seeking and, secondly, it would provide an issue that people could then discuss and debate.

It is too big a jump to open a meeting like this with no proposal before the people. It is fine for the 10% of the people who enjoy debate and discussion but, for the 90% of the people who are easily intimidated, they need something before them before they can start speaking. That is all I have to say.

Mr HATTON: Thank you. I would like to make a couple of comments there because, again, whilst this book may have been around since October 1987, quite obviously it has not had a very wide distribution and I do not think that the people it has been distributed to have taken the time to read it.

Part of what we are trying to achieve is to lift public awareness because really this does provide that base document that you are talking about. It gives options, some recommended positions. Different views are put and the arguments surrounding them, so people can read that and say that they prefer this one to that one. That is what we are trying to get across at this stage of the process. When we have gone through this stage of our process, we will be producing a draft document to take us through that second stage.

Mr HICKEY: Certainly, I should have read it and I admit that I have not. What you are aiming at with those documents is only 10% of the population. You cannot realistically expect 90% of the population to go to those documents and read them.

Mr HATTON: No.

Mr HICKEY: Given that the average level to aim at is a 12-year-old basically, if you are dealing with the public, and I think that we are slightly astray if we are aiming that document at a 12-year-old.

Mr EDE: A point that could be raised on that is that, earlier on, we decided that we needed to have a different form of document and we are in the final process of developing that now. It is to go out to Aboriginal communities to attempt to put some basic concepts across about what a

constitution is, what is the legislature, what is the role of our legislature as against the federal legislature, community government etc. It has become more and more obvious to me since we started this process that we were probably in error in confining that distribution to the Aboriginal community. There seems to be a general lack of knowledge about the nature of a constitution and the 3 different building blocks of a government - the executive, the legislature and the judiciary. People need to know how those relate to each other, how bills go through a process and become law etc.

We are finding more and more, from national polls and from national surveys, that the level of knowledge in the general community about those things is very low. There is a danger that we as actors in it, if you like, can get so tied up in the little game that we play in politics that we assume that people outside are avidly following what we are doing. In fact, the opposite is the case. People have much more sense than that and they get on with their own lives. Every now and again, we come along and expect people to take notice of us.

Mr Hatton: They view politics with extreme boredom.

Mr EDE: If we intend to insist that people take part in the preparation of a people's constitution then it is our responsibility to conduct a political education exercise throughout the Territory to give people the knowledge which will give them the power to take part as equal partners with us in that process.

Mr HARRIS: John, can I just ask how you became aware of this meeting tonight? Was it through the newspaper advertisement?

Mr HICKEY: There were a large number of sources. I am a field officer with the Office of Local government.

Mr HATTON: So you will be one of the people that we will be talking to about ... ?

Mr HICKEY: Yes.

Mr HARRIS: I would ask those people that are attending these meetings that, if they can, they spread the word that we are trying to get input from the community. Janelle Karriger, who spoke with us here just before Joan Small, indicated that she had found out that we were meeting here today through a meeting of the YWCA. It appears that people are talking about these meetings and the message is getting around the community, but we need to spread the word a little more quickly than we are doing at the present time. Perhaps next time we are in Tennant Creek, the meeting will be packed.

Ms SMALL: Can I just make a comment on that theme, Tom? With other documents that the government presents, like the Towards the 90s document, for instance, the government sends out the documents and says that it will be holding a meeting on such and such a day at a certain time to discuss the document. That focuses people's attention on the document relating to that particular meeting. I think that is one of the things that happened with these documents. People put them on the shelf and waited to get some detail about them but they did not relate to a specific meeting until the committee arrived on the doorstep, so to speak.

Mr HARRIS: We are learning too, Joan, as we mentioned earlier on.

Mr SETTER: Could I ask whether Tennant Creek was letter-boxed?

Mr ?: Yes.

Mr SETTER: It was? With the pamphlet?

Mr HATTON: They were supposed to be letter-box dropped.

Mr EDE: They do not have letter boxes here.

Mr HATTON: Post box dropped!

Mr SETTER: That was by Australia Post?

Mr ?: Yes.

Mr HATTON: Would any other people like to raise any questions or make any comments?

Ladies and gentlemen, thank you very much for the input. I think this has been a very valuable meeting from our committee's point of view. I look forward to people taking up the issue of a Northern Territory constitution and moving to start discussing some of the issues outlined in these booklets. We will look forward to receiving some comments and submissions and seeing more active interest within the community and hope that people will become more involved in the process next time we come around.

I declare this particular hearing closed

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

TENNANT CREEK — Monday 17 April 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:

Ms Kay ROSE
Mr Rolf SCHAEFER
Ms Maggie HICKEY
Mr Kevin BAIN
Mr Ian TUXWORTH

NOTE: Edited transcript.

Issued: 11 May 1989.

Mr HATTON: I am more than happy to receive submissions from those who have prepared them. This is very deliberate because there is still a great deal of work to be done to enable people throughout the Territory to come to terms with exactly what the processes are. Last year, the Tennant Creek Council took the opportunity to get information on the constitutional development process, and I know that it has done a considerable amount of work in order to bring some views forward to the committee. We will look forward to receiving those submissions this evening.

I commence by saying that our committee is known as the Select Committee on Constitutional Development. It is a committee of the parliament of the Northern Territory. There are 6 members on the committee and photos of the committee members are shown on the flyleaf at the back of this booklet. There are 3 members from the government's side of the House and 3 from the opposition or non-government side of the House. I am the chairman of the committee. My name is Steve Hatton and I am the member for Nightcliff. Tonight I have 2 of the committee members with me, Mr Brian Ede, the member for Stuart, who is the deputy chairman of the committee, and Mr Rick Setter, the member for Jingili.

Our select committee's task and the task that we are here to talk to you about is the process to stimulate and work towards the development of a constitution for the Northern Territory. There has been extensive debate in the Northern Territory over the last few years on the question of statehood and some controversy about the subject. There are people in the community who are strong advocates for statehood as soon as possible. There are other people who are very nervous about statehood. They are not convinced that the time is right for statehood today. And, certainly at this stage, there are some people who are opposed to the concept of statehood.

However, I would like the community to accept this view. We are not asking you for your view on statehood. We are not asking whether you think we should be moving to become a state or not to become a state. That is not the question we are asking tonight, but I would ask the Territory community to recognise that one day, whether it is next year or in 5 years, 10 years or even in 20 years, one day the Northern Territory will become a state. However, before you can even consider the concept of becoming a state or when to become a state, you need to work out what sort of place you want the Northern Territory to be. You need to work out basically what the rules are to be in the government and operation of the Northern Territory, and the process of doing that is to develop a constitution.

Essentially, a constitution is a law made by the people which is the controlling law over government, the courts and the whole administration. It could be said that it is the law that governs the government and it is a law that can be changed only by the people. It is a law that sets down how the people want the parliament to operate, how they want the courts to operate and how they want the full mechanism of government to work. Also, it includes a protection for the sort of fundamental rights that the people believe it is essential should be protected so they are removed from the ability of government to muck around with them. That could include matters such as entrenching a person's right to vote and the right to stand for parliament, or under what conditions people have those rights. It could include the right to the freedom of religious expression or the freedom of speech. There may be things you would seek to entrench in a constitution but that other people would argue should be dealt with through the courts as we have done for several centuries. However, they are issues that you can consider.

If you think that certain matters are so important that they should underlie what government can do and cannot do and you want to set those rules as a people, you do that through the drafting of a constitution. Every government in Australia has a form of constitution, except the Northern Territory in the true sense. The federal government operates under the Australian Constitution. You know that last year we were asked whether we were prepared to approve amendments to that Constitution and the government had to go to the people. As it turned out the people said no, so the Constitution stayed as it was. And that is the strength of it. Every state has a constitution also. Albeit they were drafted over 100 years ago and they are essentially of a colonial style, each state still has a constitution that governs its operation.

The Northern Territory does not have a constitution. The parliament of the Northern Territory, the governmental structure, runs under the grace of a federal act of parliament. Section 122 of the Australian Constitution says that the federal government can do with a territory - such as the Northern Territory - whatever it likes to do. Because there are no constitutional limits on government, government is all-powerful: what government gives, government can take away. For example, by repealing an act of parliament, the federal government has the power to remove all forms of political representation in the Northern Territory. By amending regulations under an act of parliament, it can wipe out, for example, the entire Northern Territory education system. I am not suggesting the federal government would do that, or that it would get away with it politically, but please understand that it has the power to do it because you, as a people, do not have the protection of your own constitution.

We are here to ask you to start to think about the sort of matters you would put into a constitution for the Northern Territory. How do you want the parliament to operate, the voting system, the courts? What sort of rights should or should not be protected by a constitution? What sort of a society do you want to leave behind for your children, your grandchildren and your great-grandchildren? The work that goes into the drafting of a constitution will essentially shape that society for your grandchildren. It is not a task to take lightly nor is it a task to rush. It is a task that the people must be essentially and deeply involved in. We must obtain a broad agreement between the total and diverse range of people in the Northern Territory to find a way that they will live together and grow together in the next century. It is not an easy task and there will be some terrible fights in the process of getting there.

It is not a task that will be done quickly but it is a task that we have an obligation to perform. If we do not do this, our children and grandchildren will turn back and ask why we turned away from setting the ground rules for a good society. They will ask why we did not take up the challenge and take up the responsibility that is in front of us. If we do, and if we do it well, our grandchildren will look back with gratitude on the work that we have done for them. That is what our task is.

Our committee has the work of encouraging people to become involved in that task. The committee is a catalyst, a coordinator, a guidance officer in some respects but, basically, our job is to stimulate the community to start to think about this, to start to talk about it amongst yourselves. If you want to find out more, invite us back to talk. Look at the information that we have available. Think about the different questions that are involved and come up with your ideas and have your say. Our job now is to put the questions in front of you. We will be back again, more than once if necessary. We propose to come back, probably towards the end of this year or early in next year in order that the communities may bring forward ideas. In the meantime, perhaps there will be a

crossflow of ideas around the Territory. After we have received submissions later this year or early next year, our job will be to prepare a first draft constitution, taking into account the different views that have come through from the community. Also, we will then be preparing recommendations to the parliament on the structure of what is known as a constitutional convention.

To put that in ordinary language, such a convention will be like a big committee of representatives from across the Territory who will come together to go through our draft and check it out, accept it, amend it, vary it and work it up. It will see whether that is, in fact, what the people in the Territory community are thinking. When they finish their work and produce their proposed constitution that will then go as a referendum for the people to accept or reject. If the people say no, we go back to square 1 and we start work again, and we will keep working at it until we get something that people will say yes to. Then we will have a constitution in place. Then, as a community, we will start to see into the future and where we may be able to go when, eventually, we achieve statehood. We will not have an idea until that job has been done. That is the task in front of us.

You can see that we are working to involve the Northern Territory community as much as possible and, as is to be expected, initially there is only a small amount of interest in the community. However, I think if you remember back, for example, to the days in Tennant Creek when people first decided that they should consider putting in local government here, I will bet that the first meeting to discuss that was not too well attended either. But bit by bit the community gets more and more involved in such subjects, and interest will build if we give people time to come to grips with it and get involved in it, and that is what we propose to do. We are not going to allow this constitution to be drafted by politicians, lawyers and academics in Darwin. Essentially, it must be drafted by the people of the Territory so that, at the end of the day, they feel that they have ownership of this, that it is theirs, that it is their law that they are giving to the government to control government and the direction of the Territory. For the first time in our history the people will have a say in how the Northern Territory has to go.

To help you with that, as you know, this booklet is available. It does not make for too hard reading. It is an introductory booklet on the issue. We have done much more work than that. There is a book here which is much thicker. This is actually a summary of the green discussion paper. This contains a number of different options arising from research around Australia and around the world - from the Americas, New Zealand, Africa and the Caribbean, and covers different sorts of constitutional provisions. I can tell you that there are things in here that members of this committee do not like and there are things in here that you may not like. It may be that what we like you do not like and vice versa. There may be things in here that some sections of the community like and others do not like. We have tried to put as many of the options as we could think of in front of the people so they will have a chance to choose and to think about different opportunities, different options. Then when you get together with other people around the Territory, you can start to debate it. In that way we can all come to grips with the reality of the Northern Territory and build a society in which we can all grow together and move into the future. That is our task and that is the task we will be asking you to become involved in over the period of time, however long, it takes to do the job properly.

That is all I have to say at this stage. We will be offering an opportunity for people to ask questions and make comments or whatever, and to make submissions, but I would like to ask my colleagues if they would like to add some comments.

Mr EDE: First of all, regarding the constitution, many of you will have had experience in drafting constitutions, whether for sporting clubs or for whatever, and you will know that constitutions cover a number of machinery matters that establish the club or whatever as a body corporate, and that provide various protections for the committee and for elections to be held every so often and that certain people shall be on the committee and so on. They are the machinery matters. Also, most such constitutions state what can and cannot be done by the organisation. For example, there may be a provision that states that the constitution cannot be changed unless a special meeting of the organisation is called for that purpose. Steve was saying that one of the things about our constitution will be that only the people can change it. Actually, in fact that in itself is something that has to be established. The only place in Australia at present where the people are required to agree to a change to a constitution relates to the federal constitution.

Mr Hatton: Queensland?

Mr EDE: The other state constitutions ...

Mr NICHOLSON (?): Some of the constitutions in the states have isolated provisions that require agreement but, in the main, they do not.

Mr EDE: In the main, they do not. They can be changed by the government. As a committee, we believe that that should not be the case in the Northern Territory and that is why we are coming out to the people rather than sitting in a little air-conditioned office in Darwin with a couple of lawyers and writing this thing up. We believe that it should be a people's constitution. It should be something which the people are involved with and that the people have worked out what basic essentials they want it to contain. Aside from the machinery provisions which are common to all constitutions which set up a state, the people should decide what can and cannot be done by the government.

In some places I have suggested that it is similar to having a cheeky dog that bites people. You decide to put a rope round its neck and tie it up and you have to decide whether it shall be a long rope or a short one. That will depend on how much you trust the dog and how keen you are to keep other people away. A constitution is a little like that. It gives the people a hold on the government because it tells the government that it can go so far and no further. It indicates how far the people of the Territory want the government of the Northern Territory to be able to go and outlines the no-go areas which the people say that the government cannot touch because they involve what the people see to be basic principles governing living as Territorians and they do not want those things changed if there is a change of government.

It gives an indication from the people that, if they put a different government in power, they do not want that particular principle interfered with without their agreement. It will require the government to hold a referendum so that the people can indicate their wishes at that time. However, then we will have to work out what percentage of the vote taken in a referendum will be required to obtain a victory for the government. I believe that when Alaska went for statehood, it ended up with

about an 80% margin. That was substantial and away they went, but those things will have to be discussed.

However, today basically we are just setting off on the first step. I would like to say that going through this process is almost as important as where we end up because in going through the process we will be questioning the values held by other people. Each of us will be looking at the proposals being put up by other people and trying to understand what other people are on about. Hopefully, through that process, we will come to understand each other better and what motivates other Territorians. We will be able to examine our own values and ask ourselves why we are so strong about a particular position, define it and decide if it is defensible or not.

Those are matters that we will be looking at over the next few years. Each of you will be looking at them and every other Territorian will be looking at them in order to decide what is defensible. We will all be finding that some matters that originally we thought it was essential to include are not so essential in the final analysis and that other things are absolutely fundamental.

At this stage, I will not be involved in discussion of what I think. I believe that one of the major strengths of this committee at this time is that, in public sessions, we are attempting not to debate the way we see issues from our side as against the CLP side. We want to see how far we can go in seeking common ground. First, we want to look for the things that we agree on and see how many of those we can find before we start to fight over aspects that we disagree over.

I will mention one fact. I do not agree with the boundaries of this Territory. I reckon it should be much bigger, but I know full well that I will not win as much as I would like to win. However, if I were to take up that issue now and say that I would not continue with this debate until the Territory is expanded into Queensland that way, South Australia that way and Western Australia that way, we would not get anywhere, would we? We have to start with the things that we agree with and work our way through those, and then start learning how we to negotiate the things that we disagree on and build those up. This is the process that we have to start today.

We will put all our cards on the table. We must encourage everyone so that nobody is frightened to put his cards on the table no matter how controversial they are and no matter how much a person may think that he is the only person in the Territory that sees his point of view. We want to hear what everyone has to say and then see how the different points of view measure up against against each other. I think that that is the step that we are starting on tonight. Thank you.

Mr HATTON: Rick Setter.

Mr SETTER: Thank you, Steve. You know, there has not been a state or federal constitution, a government constitution, developed in this country for almost 100 years now. The last would have been the Australian Constitution. Of course, the Australian federation was established in 1901 and that is when the Australian Constitution came into being. The state constitutions were developed probably in the 50 years or more prior to that time.

We have been back and had a look at all of those constitutions and whilst indeed many of their functions would apply appropriately in the Northern Territory with some minor modification, the whole community has changed in that some. It is a different ball game now, and there are many issues about right now which we believe should be recognised in a Northern Territory constitution which are probably not recognised in the existing Commonwealth or state constitutions.

It is possible for a Northern Territory government to negotiate with a sympathetic federal government and, if they can strike the right deal, they can proceed and develop a constitution which those said governments could impose upon the people of the Northern Territory. It is constitutionally possible to do that, but it is the unanimous view of this committee that that is not the right way to go. We believe that, without the support of the majority of the community, any constitution that would be developed under those circumstances would not be supported. It would not have the support of the community at large. In fact, at page 3 of this green booklet, which is a Discussion Paper on a Proposed New State Constitution for the Northern Territory, under section 2(d) it says:

The view of all members of the select committee is that the new state constitution must be prepared by Territorians; it should not be imposed upon the Northern Territory by outside agencies.

That is the view of the committee and, of course, with that view in mind, we have a responsibility to go out and consult as many people as we possibly can. That is not easy because there are 60-odd communities out there, people with a whole range of varying background be they ethnic, political or whatever. You name it, they are all out there. So it is very difficult to get everybody to agree about everything all of the time. In fact it is impossible. Nevertheless, we have an obligation to consult with as many people as possible and, as a result of that consultation, a draft constitution will be developed. However, there are a couple of key things that I would like to mention to you, and they are also in the preamble to this particular document. If I may, I will read those under Section A(b). Under the heading of Summary of Select Committee Recommendations and Endorsements, it says:

The select committee considers that statehood for the Territory must provide for constitutional equality with other states.

That is very important because, without that, there should be no statehood and, of course, probably no constitution. Section B, entitled The Legislature, says: '... the select committee is of the view that the new state parliament should be given the same rights, powers and privileges as existing state parliaments'. You will read that in that introduction, so they are sort of the bottom lines.

Of course, this committee has been in place now for about 3 years and even though we have only recently commenced the consultation period, a great deal of work has been done within the parliament, within the committee of the parliament which we are, and as a result of that discussion the various documents have been produced which our chairman mentioned to you a moment ago. If you read the options paper particularly you will find that the basis of a constitution is already there, and there are various options about various matters, so that is a good starting point for anybody who wants to become involved in this debate.

I think that Steve mentioned that, at some time in the future, probably next year, a constitutional convention will be convened and representatives of the Territory community at large will come together in this convention to consider the recommendations of the committee and a draft

constitution that we will put forward, and from that will come a final recommendation to the people of the Territory. Thanks Steve.

Mr HATTON: Thank you. We have talked more than enough, I think. The meeting is open to people who would like to raise questions or make some particular comments. Would you prefer to make your submissions first, Kay, or would you like to wait?

Ms ROSE: I would like to make a very brief comment. We have not looked at all of the issues raised in the green document but at those that we felt were specific to local government. We figured that the interest groups involved with issues such as Aboriginal representation and human rights would address their specific interests and give full submissions on those. We acknowledge that, since 1978 when we got self-government by virtue of the Northern Territory Self-Government Act, the powers that have been transferred to the Legislative Assembly have meant nothing but good things for Territorians. It is now 10 years since this act came into force and Territory people and their representatives, we believe, have demonstrated their ability to accept responsibility for making decisions and that the Territory is now ready to take its place as an equal member in the federation of states. We felt that the time for caring only for the softer options is over and full statehood is not only our right but our responsibility as Territorians.

We looked at the question of a legislature and felt that the experience of 1 House, the Legislative Assembly, has been a good one for the Territory. Therefore, a single-House state parliament would seem appropriate. The new parliament should have the same powers as those of other Australian states and a 4-year term was seen as desirable. We felt that persons standing for election in a new state parliament should be subjected to a security check to establish a past free of any proven criminal charges, be an Australian citizen, and be competent in both speaking and comprehending the English language, and we presumed then that the government of the day would be in an English-speaking country.

Electorates in the Territory are of such a size and diverse population that representation and boundaries could perhaps be determined on a points basis, taking into account issues such as communications available, distance, population spread, industry mix and so forth. We also felt that voting should be both compulsory and secret.

On the page headed 'The Government' it states that only members of the new state parliament should be appointed to be ministers. The ministers should not be able to control decisions of the Governor and the office of the Governor should have the authority to protect the new state constitution.

We looked at the judiciary section and the comment that follows. The new state constitution should state that courts and the work of the judges be protected from interference and have safeguards against corruption.

Last but not least, we looked at local government. Perhaps we looked at it first but we were too polite to put it first. We believe strongly that a system of local and community government should be written into the new state constitution, allowing for elected and or appointed representation from areas of significant and permanent population. The nature of the powers, authority duties and functions of the local and community government should be in accordance with the laws of the legislature.

Although it is a very brief submission at this stage, I can say that the Tennant Creek Council really would wish to be involved in a constitutional convention and to continue to have input into it. That is all I have to say on behalf of the council. I would, however, tender an apology from Gavin Carpenter of the Confederation of Industry who very much wished to be here tonight but could not be. He assures you of the interest of the confederation in the Barkly region. We have some copies of our submission here for you.

Mr HATTON: Thank you. Kay, could I perhaps just clarify a couple of points while we are here? You made a number of points in respect of the electoral provisions such as a 4-year terms, the need for candidates to be English-speaking and so on. I didn't pick all of them up although I no doubt will when I have the opportunity to read through this submission. Could I ask how much you believe those sorts of provisions, such as the point scores in relation to electorates, should be incorporated into a constitution?

This is where we are really going to have some debate. How much do you put in the constitution as distinct from what you put into what you regard to as the appropriate legislation? Remember that the constitution is going to be more or less immutable and unchangeable. The history of referring constitutions back to the people shows that they very rarely get changed. They tend to be fixed. You have to draw the balance between stability and the flexibility that you can achieve through the legislative process to cope with changing circumstances. There might be emerging communities or a change in shape over several decades that can be dealt with by legislation built on the foundation of the fundamentals in the constitutional provisions. That is one of the issues we are going to be asking people to really think hard about.

Mr SCHAEFER: But that's really irrelevant. If a man can't talk English what's the sense of running the country?

Mr HATTON: I'm not suggesting that that not be a provision. I'm just saying ..

Mr SCHAEFER: That's what you were saying.

Mr HATTON: An issue was raised here in respect of a points score.

Ms ROSE: We looked at areas as large as the Barkly with scattered but significant spots of population and we looked at the question of one man, one vote. We felt that the only fair way, in terms of the Territory's population as it develops over the next 100 years, would be to find some way of giving people in a community of 10 more drawing power than 10 people living, say, in a single street in Nightcliff. The former group has a far greater need for representation on a percentage basis than 10 people living in a single street in Darwin.

Mr HATTON: So it is a method of measuring ...

Ms ROSE: I don't know how it would be done.

Mr HATTON: It is a method of measuring the tolerance rule, say.

Ms ROSE: Yes, yes.

Mr HATTON: You are saying that the tolerance should work in favour of smaller populations living in large areas instead of the reverse, which some people would argue has been the case at times in the Territory.

UNIDENTIFIED: So basically you would object to the principle of one person one vote as a general rule in the Territory.

Ms ROSE: I guess I object to it in Australia.

Mr HATTON: One vote one value, not one person one vote. Everybody gets a vote.

Ms ROSE: Yes, everyone gets a vote. Certainly.

Mr HATTON: There is a big difference.

Mr EDE: One of your points related to the need for a security check to establish whether a person standing for election had a past free of any proven criminal charges. Do you mean criminal charges or criminal convictions?

Ms ROSE: Convictions. I am sorry, yes.

Mr EDE: Have you thought through the degree of a criminal conviction? I mean, a parking infringement is a criminal offence.

Mr HATTON: No, it is not.

Ms ROSE: No, we did not think that was a criminal offence.

Mr EDE: It is a misdemeanour. You mean criminal in the sense of an indictable offence under the Criminal Code.

Ms ROSE: Yes. We were talking about fraud and that type of thing.

Mr EDE: It is a person who has been convicted of an offence under the Criminal Code.

Ms ROSE: We really felt that there should be some sort of screening before a nomination is accepted.

Mr EDE: You would not know. You are not saying that the electors should then decide ...

Ms ROSE: No, I am just saying that such people should not be eligible to stand.

Ms HICKEY: We were not necessarily making a judgement about people who had a criminal record. They may be free of blemish in the future, of course. But we felt that there were problems inherent in possibilities such as blackmail or in people carrying out their parliamentary function with that sort of cloud hanging over their heads.

Mr HATTON: Unless it was public knowledge at the time of the election.

Mr EDE: No. You do not believe that is good enough for it to be public knowledge at the time of the election that, 20 or 30 years in the past, a person has been convicted of a criminal offence, even though that person may not have been sent to jail for the offence? You believe that

such a person should not be able to stand? Essentially I am asking whether you are really strong on this issue or whether it is a negotiable point.

Ms ROSE: I guess every point is negotiable. It is very early stages as you all said. These comments reflect our opinion at this moment. In 3 years time it may have firmed up or it may have softened. We should hear more debate on the issue.

Mr EDE: So it is a strong feeling at this stage ...

Ms ROSE: At this stage, it is.

Mr EDE: ... that it should be a matter for debate and discussion.

Ms ROSE: There has been a lot of publicity recently about such issues and I guess community feeling is pretty strong about it right now.

Mr HATTON: Could I ask about one other point, Kay? You said ministers should not be able to control decisions of the Governor. You go on to say that the office of the Governor should have the authority to protect the new state constitution. Perhaps, while you are looking for that page in the submission, I will address that point in order to give you an idea of how things work now.

Ms ROSE: Will I be honest about this? The question you posed was: 'Should the ministers be able to control a decision of the Governor'? We have written 'No, but we do not know how you are going to do it'.

Mr HATTON: Perhaps I can explain how the system operates now. The Administrator makes his decisions on the advice of a thing called the Executive Council which is really all the ministers of the Cabinet. They form themselves into a separate committee called the Executive Council which advises the Governor. He accepts their advice. If Cabinet makes a decision on, say, a regulation, and the Executive Council recommends it to the Administrator, he approves it. All right. The question is, does he have the right to say: 'No, I am not going to approve that regulation'? In other words, does he have the right to overturn the decision of the elected government?

Ms ROSE: We are saying no, he should not have that right.

Mr HATTON: He should not have that power.

Ms ROSE: We believe people are elected to govern us. They are the ones that are accountable to the electors.

Mr HATTON: The Governor is like the Administrator. He should not have the power to overturn the government decisions or the government's direction.

Ms ROSE: Governments are elected. We want them to make the decisions.

Mr HATTON: Right. That is why I wanted to just clarify that point. What you are saying is that, if the government wants to do something that is unconstitutional, the Governor should have some powers to prevent the government from carrying out an unconstitutional act. Is that the difference you are drawing?

Ms ROSE: Yes, that is right.

Mr HATTON: I think it was important to draw that. Governors are not going to overturn acts of parliaments and all those sorts of things but, rather, if the parliament enacts legislation that is unconstitutional, they can send it back.

Ms ROSE: That is right.

Mr SETTER: That is the question that I was going to ask too, Steve. The submission indicates that ministers should not be able to control decisions of the Governor and, conversely, that the Governor should not be able to control decisions of the government.

Ms ROSE: We probably should have expanded more. We read through the book and addressed the issues it raised and then sort of ...

Mr HATTON: We have plenty of time and it is important to consider these things fully. That book is a summary of this larger book and you will find that some of the arguments that we are throwing around are debated in the larger book. It can give you more information. It is like a reference book which provides additional information. The smaller book is a starting point which summarises some of the arguments for and against various approaches. It allows you to say that you agree or disagree with this or that or to decide that you need more information.

Mr SCHAEFER: Well why don't you send one to everybody in the Territory so they can have a look?

Mr HATTON: We have tried to circulate these around the community. We have been delivering them around the Territory now for 2 years and most people have not picked them up. I am not joking. We have done that. There are some here and you are welcome to take them now so you will have a chance to read through them. We will make more of them available if need be.

Mr SCHAEFER: We are sort of walking into this blind aren't we? We have not read that book and you have, so you have one over us.

Mr HATTON: That is why we are not asking people today to make submissions. Rather we are saying: 'This is how we are going. This is the information that is available. Go away, read, think about the issues and when we come back later on you will be in a position to tell us about it'. That is what we are doing today. I knew that the Tennant Creek Council had some views to put forward because its members spoke to us when we came to Tennant Creek last June and we discussed some of the issues then. I knew that the council had worked on presenting a submission and we are receiving that today. We are not expecting people to come forward but we are happy to receive submissions if people want to make them.

Mr SETTER: I would just like to come back to the point that the council made earlier. I refer to page 53 of this book, under the heading Powers of the Governor. Under section 8, it says: 'On balance, the select committee considers that, as a general rule, the representative of the Crown should be required as a matter of law to act in accordance with the advice of his or her ministers'. So you see, we are saying that the Governor should act on the advice of the Executive Council.

Mr HATTON: The council favours a 4-year term. Did it look at the question we asked about whether there should be some sort of fixed term?

Ms ROSE: We looked at it and decided not to comment on it. We felt that there may be overriding issues. For example, we considered the possibility of a war. We felt that we might at some stage have elected a peaceful greenie type government to green us up and make us lovely and, suddenly, find ourselves thrust into a war situation in which we would prefer a different type of government. That is the analogy we used - some major catastrophe that might lead a population to say that it wanted different sorts of people in positions of power and making decisions.

Mr HATTON: But how do you go about forcing that government?

Ms ROSE: I do not know. I do not have the answer to that one.

Mr HATTON: Even in a flexible situation, it is up to the government to say when it is going to an election.

Ms ROSE: I do not know the answer to that one, Steve. We are only at the early stages of tossing these ideas around.

Mr HATTON: That is right. But it is interesting, isn't it, when you start throwing up those possibilities and begin to consider whether you can write some rules that will achieve what you want or whether it is worth attempting to write rules on such matters.

Mr EDE: One fact is that our constitution will come under the federal Constitution. We cannot do anything which would take us outside the federal Constitution. The powers of the nation at war under that constitution would override any provisions in our constitution if the country found itself at war.

Ms ROSE: Well, we just looked at that one as being absolutely ...

Mr HATTON: You are talking about a major crisis in the community.

An issue that could arise and which has been raised in the books put out by the committee relates to the situation in which, for some reason or another, the government in power does not have the confidence of the House. In other words, it does not have the numbers. This sort of situation could have arisen recently when Joh Bjelke-Petersen was defeated as leader of the National Party in Queensland and said that he was not going to resign as Premier. In that situation, should the Governor have the power to dismiss a leader and therefore his government, and invite somebody else to form a government? In that case, it would have been Mike Ahern.

Mr BAIN: The right to dismiss any elected body should belong to the people, whether it be the Premier or a government.

Mr HATTON: That is one of the question we ask. How do you go about working that into the constitution? What do you do in a situation where, clearly, the person who is the head of government does not have the support of the parliament?

Mr BAIN: Take the case of Don Lane. He was stood aside just so the government could retain its number of seats. The people in his electorate had every right to ... (inaudible).

Mr HATTON: That is a question that has arisen in a couple of communities actually - whether people should have time ...

Mr EDE: Under the American system, I think they call it the right to recall. It is basically a people's impeachment in which the people say that a person elected by them, by virtue of actions since that election, no longer commands their confidence.

Mr BAIN: It is an option you have under the Magna Charta ... (inaudible).

Mr HATTON: But you do not have it under the Australian Constitution.

Mr BAIN: The Australian Constitution is built around the Magna Charta.

Mr HATTON: Perhaps I might ask our constitutional lawyer to comment. When these questions come up, I like to ask the expert.

Mr NICHOLSON: I would have thought that the Commonwealth constitution was exhaustive on that subject. The only way you can remove a member of the federal parliament - is that what we are talking about, the federal parliament?

Mr BAIN: (inaudible).

Mr NICHOLSON: The Commonwealth Constitution does not deal with state parliaments. It only deals with the federal parliament. The only way you can remove a member of the federal parliament is in accordance with the Commonwealth Constitution. I do not think you could rely on the Magna Charta to remove a federal member.

Mr BAIN: It is one of our inalienable rights to be able to remove any elected representative by petitioning the Queen. It was the ultimate power of ...

Mr NICHOLSON: I do not think the Queen has that power.

Mr BAIN: I think you will find that she does although under ... (inaudible)..

Mr HATTON: The evolution of constitutional law in Australia has come a long way, even this century, through the Australia Act, the separation from Britain and the taking over of our own decision-making within Australia through our own national Constitution. They are the foundation stones but sometimes, in building upon them, you may move in a different direction. Clause 44 of the Australian Constitution contains provisions relating to the disqualification of members. I am not going to read them all now because they go on and on but they do not mention the people being able to take that decision. They apply if a member is bankrupt, tainted with treason, has been convicted and is 'under sentence or subject to be sentenced for any offence punishable under the law of the Commonwealth or of a state by imprisonment for 1 year or longer' and so forth. If any of that applies, a member is automatically out of parliament.

The Northern Territory is in a unique situation under our Self-Government Act, which is the closest thing we have to a constitution. The federal government actually has the power to call the Northern Territory to an election whenever it wishes. Do you really think that is fair?

Mr EDE: It depends whether you are in government or opposition.

Mr HATTON: It has the power to do it.

Mr SCHAEFER: Yes, but there are so many clauses and powers that the government can use it whatever way it wishes.

Mr HATTON: I can think of a couple of occasions, and I am sure that Mr Tuxworth also can, when the federal government has threatened to disallow laws of the Northern Territory. The Criminal Code was one example.

UNIDENTIFIED: To get back to the point about the Governor, is that a point that could be put forward for discussion in a submission?

Mr HATTON: Yes, it is in fact one of the specific issues that we are asking questions on. It is what is called the executive component. Under our monarchical system, that is the Governor. This book helps to outline the situation. Because Australia operates under a monarchical system, we also will operate under it. It is therefore a waste of energy to debate the cause of becoming a republican state. There will be a Governor who will be the Queen's representative and the executive head of government. It is the interplay of powers between the Governor, the courts and the parliament or the legislature that is what we talk about when we write up our constitution. If you look at the book, you will see that it contains 11 pages of questions that we are asking people. They deal with all sorts of matters in a wide range of areas. Some are very controversial and some are mechanical in nature but they are all there and, indeed, we might have missed some.

Would anyone else like to make any comments or ask any questions?

Mr BAIN: I have a submission to make. First of all, I have a small petition to hand to Mr Tuxworth and the members of the committee. It contains signatures collected over the last couple of days. The submission I make is that the total Swiss concept of the citizen-initiated referendum be included in the constitution.

Mr SETTER: Excuse me, Mr Chairman. I wonder if the gentleman could identify himself and indicate who he represents if he is representing ...

Mr BAIN: Kevin Bain and I am just representing myself.

Mr HATTON: Just your name and address, for the purpose of the record.

Mr BAIN: It is in the record. As I was saying, I would like to see the total Swiss concept of the citizen-initiated referendum included in the constitution. The reason I feel that we need citizen-initiated referenda in the 3 stages of the system is that the political party system in Australia - and I do not know whether it is quite the same here in the Territory as in the federal sphere and most of the states - is such that the party system totally controls the elected representatives. They are no longer true representatives of the people but representatives of the party hierarchy and, therefore, they are not carrying out the expressed majority rule of the people of their electorate. That is my contention and the reason why we must have CIR in the constitution.

I should probably explain a little bit about CIR so that everybody knows what I am talking about. The first stage is the citizens' initiative which allows the people, or a group of people - and it does not matter whether it is a minority group or a majority - to raise a petition of a specified number of signatures from an electorate, a state or the whole country proposing a law of the group's own desire. For example, in Florida 3 years ago, the people initiated a law whereby the government was only allowed to spend 80% of collected revenue and the other 20% was to be used to reduce state debt. Today, Florida is almost debt-free. I do not know whether that is because they used the 20% to pay it off or whether it comes from their marijuana sales but they are just about

debt-free. That just shows you the sort of thing that the people can do to get their country out of strife - and we are in a lot of strife.

The second stage of the initiative is the veto, which allows the people to scrap existing laws if they are bad laws and people do not like them. You might, for example, have death penalty. With our judiciary the way it is and our police force the way it is, with corruption being shown up all over the place, the people might not want to have the death penalty. The veto would allow them to scrap it. Similarly, they might want to scrap abortion laws or something else.

The third stage is the recall. That allows the people to petition for the dismissal of elected or appointed public officials who are proven to be, or can be demonstrated to be, unfit to hold public office.

That is my submission on CIR. Are there any questions in relation to it?

Mr EDE: I have a couple, just for the record. What percentage are you talking about in terms of bringing off a successful result in a citizen-initiated referendum? Are you talking about a 50% majority?

Mr BAIN: Some countries have a 50% or 51% requirement as far as the referendum side of things is concerned, but it is probably better if only a small number is required for the petition to trigger that off. If, for example, the constitution requires a 51% or similar majority on a petition, it is obvious that there is no need for a referendum. So to trigger the mechanism off you would probably want just a small percentage.

Mr EDE: Would you like to throw in a percentage for that trigger? The trigger has been one of the major sources of argument in relation to CIR or partial CIR as it operates in the United States.

Mr BAIN: Yes, there are 23 states that are using it now to various extents.

Mr EDE: Yes, but the size of the trigger has been one of the big arguments.

Mr BAIN: Switzerland has had it for 110 years and it works on 5% of the electorate. That is just to trigger it, right.

Mr EDE: Yes.

Mr HATTON: It is important to consider that question because of the potential for highly organised fringe minority groups who have no hope at all.

Mr BAIN: It does not matter.

Mr HATTON: Hang on, let me just track it through. I am talking about groups which have no hope at all of getting their propositions up in a referendum. They would be spending significant sums of the community's money in putting these matters to referenda if they were able to get very small percentages of the electorate to say go. That becomes particularly significant on the issue of dismissal of a government or a member in an electorate. A party that is not in power would probably have the support of 20% to 30% of the electorate at any one time, who would staunchly vote the party line no matter what. A petition organised by a party which was out of power, calling for an election, would probably be signed automatically by a significant percentage of the electorate

and, if appropriately timed, might actually inhibit the work of elected representatives in terms of being able to take serious and responsible decisions which are unpopular at the time but which are necessary for the well-being of the community.

Mr BAIN: I think you have missed the point there. The reason you petition to have an elected representative dismissed is not because you want to change the government but because the member has been proven to be corrupt.

Mr HATTON: How do you prove it?

Mr BAIN: How do you prove it in a court of law?

Mr HATTON: You go to a court of law. If he is proven to be corrupt in a court of law, you cover that in the constitution. Such matters do not need to go to the people; such members can simply be removed from their positions.

Mr BAIN: What about Don Lane? He stayed put and picked up about another \$80 000 in parliamentary salary.

Mr HATTON: He has not been proven to be corrupt.

Mr BAIN: He admitted corruption by his own mouth at the Fitzgerald Inquiry. If that is not grounds for dismissal, I do not know what is. The figures are not the important thing because minority groups have a right to have their say too.

Mr HATTON: That is right. The question is whether they have a right to spend public money expressing their view.

Mr BAIN: In the current situation, the people do not get any chance to express their views on the laws that are made in the House.

Mr HATTON: That was only the issue that Mr Ede raised, the percentage required to trigger a referendum.

Mr BAIN: You could have whatever percentage you liked.

Mr HATTON: Well that was the question I was asking.

Mr BAIN: Whatever the people wanted.

Mr HATTON: You mentioned the figure of 5%.

Mr BAIN: I was talking about Switzerland.

Mr HATTON: That is the only percentage you have referred to.

Mr BAIN: The Swiss have worked for 110 years on this system and they do not have very much corruption any more because they have had time to work it out.

Mr HATTON: Or they have hidden it well.

Mr BAIN: They have got the highest living standard in the world, the lowest taxation in the world and the lowest interest rates in the world. I do not think it is ...

Mr HATTON: I am not being critical of Switzerland. Please do not suggest that I am. It was a flippant and unnecessary comment and I will withdraw it.

Mr TUXWORTH: Mr Chairman, could I just say that whilst Mr Bain's petition is addressed to me, it is probably proper that it be passed on to the Select Committee on Constitutional Development and I would propose to do that during the course of the forthcoming sittings when I table it.

Mr HATTON: Yes, thank you.

Would anybody else like to ask any questions? As you can see it is going to be an interesting and lively debate. I can promise you that there have been many more issues. For your information, one person has suggested that we should include constitutional provision requiring certain environmental standards to be met in any government decisions - an environmental assessment obligation on government. That example comes strongly to my mind. Many varied views will be brought forward and people will be asked to confront them. views.

Mr SCHAEFER: Why couldn't we have one for just straight equality?

Mr HATTON: You certainly can. The question is, how do you word it?

Mr SCHAEFER: So that everybody is equal. Everybody. All colours, races, creeds, whatever you like, everybody is equal, instead of having this bias that we have now where it is all going one way and minorities are paying it. Well, minorities are gaining while the majority is getting more and more poor. Are we going to have that in the constitution?

Mr HATTON: That is a matter for you to work it through. That is what we are here to talk about.

Mr SCHAEFER: All those acts that have been passed in previous years - are we going to be able to repeal them all? If you want a block of land, you buy a block of land. If you want a house, you buy one.

Mr HATTON: That is a matter for the people to talk through.

Mr SCHAEFER: The people can do that?

Mr HATTON: All the people.

Mr EDE: There are whole aspects here on human rights. The people who wrote them are saying that they are an attempt to define creating equality. Having decided that you want equality, it is a matter of writing it up in such a way that that is what you actually get.

Mr SCHAEFER: And we can alter royalties?

Mr EDE: Basically, you can do is anything within the powers that are granted to the Territory as a state, which do not conflict with the federal constitution.

Mr HATTON: That is right. Now it is up to the people of the state to write those rules. That is what we are here to say. That is the job in front of us.

Mr SCHAEFER: That is what we have got to do then.

Mr HATTON: And you have to sit down with other Territorians and debate it out, across the table, not from the other side of the river chucking stones.

Mr SCHAEFER: A hell of a lot of people are going to leave.

Mr HATTON: We all sit down in the same place and talk.

Mr SCHAEFER: Oh yes.

Mr HATTON: It will make an interesting change, won't it? Not having somebody else telling us what we should be doing. That is what it is about.

I think we have covered the main points. Thank you very much for coming along. It has been a stimulating debate and I am sure that it will become more and more so every time we meet, as people increasingly come to grips with the sort of things that this is all about. I can only urge you again, as I did at the start, to take the matter seriously. It is probably the most important thing that we are going to do for the future of the Northern Territory. The people are going to write the rules on how the Northern Territory is going to work in the future. It is your opportunity and your responsibility to work towards getting the sort of place that not only you are proud of but which your children and grandchildren will be proud of, and to leave that legacy, that heritage, for the future. It is an important job and if we shirk it, we will be condemned for it. If we do it and do it well, history will record that this generation of Territorians grew up and took control of their own lives. Thank you very much.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

LAKE NASH — Monday 17 April 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:

Unidentified Aboriginals

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

ISSUED: 21 July 1989.

Mr HATTON: Thank you very much for coming to meet us today. If I could introduce us, my name is Steve Hatton. You know Brian Ede, your local member, and Rick Setter the member for Jingili. We are all members of the Northern Territory parliament, the Legislative Assembly. We are members of a committee which is called a Select Committee on Constitutional Development and, if you look in the back of the books which have just been given you, you will see the photos of all of the members of the committee. There are 6 members on our committee, 3 from the CLP - the government side - and 3 from the opposition, the Labor Party side. This committee is unique. It is the only one like it in the parliament where we have the same number of people from the government and the opposition, the Labor Party and the CLP.

You know politics. You hear all of the time how the government and the opposition, the Labor Party and the CLP, are always fighting, arguing about this and arguing about that all the time. But sometimes, not too often but sometimes, we actually have something that we both reckon is a good thing and something so important that we are going to put all our fighting behind us and work together for something good for the Northern Territory. This is one of those jobs, where both the Labor Party and the CLP say that this is something we really have to do to help all of the people of the Northern Territory and to make a future for the people in the Northern Territory. And that is what our job is.

Now you have heard a lot of talk, I hope, and I think you have probably heard a lot of argument about whether or not the Territory should become a state. Some people think it would really be a good idea for the Territory to become a state. Some people are not very happy with it, they are a bit unsure. They do not know what it means and are not very happy with it. Well, the first thing I have to tell you is that we are not here to talk to you about whether you think the Territory should be a state or not a state. That is not the question. We are here to talk to you about a special law that the Northern Territory people need to make. After this law has been made, maybe then one day you can talk about statehood, because maybe, when this law has been made, people will know what they are going to get when they get statehood, but until we make this law, we cannot even talk about it.

The only thing I do ask you to think about is that, one day, whether that day be next year or in 5 years or 10 years or even 20 years time, one day the Northern Territory will become a state. Now what sort of a place it is going to be is for you to sort out, and you do that through making this special law. It is what you can call a people's law. It is called a constitution. That is the name of it. It is a law made by the people and not made by the government. It is made by the people. It is the law the people make over the top of the government. So, the constitution becomes like the boss over the government, the boss over the courts and the police, the boss over everything. It says what a government can do and it says what a government cannot do. It is the way the people make sure that rights that are really important to them are protected and it stops the government from being able to muck around with them. Also, in some ways, this law is a bit like the Aboriginal law.

The Aboriginal law is there and it keeps going the same way all the time. It is the same with this law. You know that white man's law chops and changes. They change the government and they change the direction. They go this way and they go back that way, and that can get very confusing at times. But this time, with this law, the government cannot do that. This law is there and

it stays there all the time. The only way you can change that law is if all the people agree to change it.

You might remember that, last year, you were asked to vote in a referendum. You were asked to vote 'yes-no', 'yes-no' on all those questions last year for the Australian Constitution. That was when a government wanted to do something and they had to go and ask the people. The people said 'no', so the government could not do it, and the law stayed as it was. It is the same thing when we make this law. It is made by the people and it can only be changed by the people. If they want it to stay as it is, then that is the way it has to be. It is a boss over the government, and that is the sort of law we are going to be talking about.

I have to say that you should think if you want to put all your rights in that law. The things that are important to you, perhaps land rights, or protection of culture, or protection of language or your right to vote, rights that you think it is really important that they must be protected and you cannot trust the government. Sacred sites, maybe, things that you think have got to be protected and which you are not going to let the government muck around. You take the important parts out of that and you put those sorts of things into a constitution, and not just Aboriginal things. It is for the white people too. The white people protect things in there. They say: 'It says I've got a guaranteed right to vote. I've got a right to have a government that I elect and they can't stop me voting for it'. It says who has a right to stand for parliament. It says you can make how long a parliament has to go before they've got to go back and get re-elected. All those sort of laws you put into there so that the governments cannot fiddle around with them.

You know, except for the Northern Territory, every government in Australia has a constitution over the top of it. Queensland, Western Australia, New South Wales, Victoria, South Australia, Tasmania, even the federal government in Canberra, they all have a constitution over the top of them. But, in the Northern Territory, you have not got one of those things. You have not got that, so the federal government can do what they like with you. They can do anything they like because you have not got a constitution to protect you. That is your protection. It is a people's law. That is a job that we still have to do, and that is the job we are coming to talk to you about, starting to think about making this law. And it is an important law. It is a law that will go on for a long, long time. It is a law that will affect the sort of place the Northern Territory will be for our children and for our grandchildren and their children. We cannot just think for ourselves today. We have to think for the future and make something that is good and strong to make a good place of the Northern Territory for our children and our grandchildren. That is what this job is about.

This is the first time for the Northern Territory people to sit down and say, 'This is how we want the Northern Territory to be, how we want the Northern Territory to work, and what we are going to let the government do and what we are not going to let the government do'. It is when the people take control. That is what a constitution is.

How we are going to go about doing that is that our committee is going around this time saying to you: 'Look, this is the job that we have got to do'. We are going to give you bits of information and answer any questions you might have about what sort of things you can look at to put in this constitution. Then we are going to go away, and we are going to ask you, as a community, to sit down and think about it and talk about it amongst yourselves. If you are not sure what is going on ring us up or get hold of us and make us come back to see you so you can ask

questions of us and get information from us, so you have a chance to think about what you think should go in this constitution.

Then we will come back later this year or early next year and you tell us then, when you are ready, what you think should go into here. We will take it from here. We have been all over the Centre. We are going to go up all the Top End, all over the Territory, in Aboriginal communities, in the big towns, all over, talking to people the same way as we are talking to you today and saying 'please start to think about this'. This law is important for you, important for your children. It is really important that you have your say on what goes in that law, so it becomes a law that belongs to all the people - Aboriginal people, white people, the lot, and something from which we can learn to live together in the future, side by side, and with respect. We have got to work towards doing that.

When you have told us all those things, we are going to sit down and put some words down and try and work out what we think the people are telling us. That will be our first go. We will also be asking people who they think should be on a big committee, because you cannot let the politicians do this job. It is too important. It is not going to be just us doing it and a bunch of lawyers and academics in Darwin. We are just going to start you going and get your information.

We are going to ask you also, how do we get together a big committee of representatives of people from all over the Northern Territory. Who can represent the people from all over the Territory, different people, different areas, to come together to look at the work we have done and say whether that is good or bad or it needs to be changed, and re-do it.

That is called a constitution convention, and their job is to write up the constitution. When they have finished their job, it then comes back to the people to vote 'yes' or 'no'. If the people look at it and say: 'No, haven't quite got it right yet', you vote 'no', and we go back and start again, and we keep doing it until we have a law the people say is good. That becomes your law, the law you give to the government, and the government has got to work to that law. That is not going to happen quickly, is it? It is going to take a lot of work and a lot of time, but it has got to be done.

If we do not do this, if we do not do this together, our grandchildren are going to look back and say, 'Why did they fail us? Why didn't they do this job for us?' But, if we do this job and we do this job properly, our grandchildren will look back and they'll say: 'They were good. They did a good job. They made a good place for us to live in'. That is the job that we have got to do and you do that through this law.

If we are going to do it properly, you have got to think about it. You cannot just sit back and let some other bloke do all the work. It is your law and you have got to be part of this. You have got to think and you have got to talk. You have to tell us what you think. You have got to have your say and make sure we get a good law for everybody - Aboriginal people, white people, Chinese people in the Territory, the lot - so we can all live together in a good place. That is what we are here to say and I hope I can get you, when you leave here, to say: 'We have got to talk about this and we have to think about it and start working on it', so you make sure you have your say in this law. That is what our job is.

I have said enough. I will ask Brian Ede if he would like to say a couple of words.

Mr EDE: You know, most times when I come travelling around, we are talking about things like how are we going to get more houses, or how to get the school going or an adult educator or something like that. This time it is a bit different, and not talking about just one thing like that at a time. This time is talking about something which is not just for ourselves, a house or car or something like that, and not just for our kids, like school or a clinic or something like that, but for our grandchildren and their children - something to go on for ever and ever.

There are a lot of people here who remember that, next month, it will be 10 years since Jim Downing and me flew out here when we heard DAA sent all the cattle trucks out to pick up all you mob and take you away down to Ammaroo. You mob were all camped up on that other side up there, a whole mob of people here all at that meeting, and we sat down and we talked about it. We said: 'Okay, does everybody want to go or they want to camp here and stay in the same place?' And everybody said: 'No. We want to stay here. This is our place. This is where we were born and we grew up around here. We want to stay here'.

Since that day to this one, there have been a lot of changes. A lot of times we have had arguments. Lots of times there has been fighting and carrying on but, over that time, what has happened is now we have got a block of land, got some houses - sure, we need lots more - we have got school, a women's centre is starting up here and there is football over there. Things are starting to get all right.

There is no more fighting going on with the station. Everybody is friendly again now. Everybody can go out hunting around there. As long as they look after the gates, everybody says that is good. And that is good and that is how it should be, so everybody has a good chance here in the Northern Territory, because we all want to be together in this Northern Territory. We do not have it where we have got one mob underneath here and another mob on top. It has got to be both square. That is what we are after so everybody has a chance, a chance for a good education, a chance for good health, a chance to do their own culture and look after sacred sites, and stay on their own land without being chucked off. So they have a chance then to get a job. That is the sort of thing we are looking for in the Northern Territory.

They are the sort of things we have got to look at when we start making the constitution. We have got to start asking what are the things that are most important? What are the things that we do not want to be changing all the time? How do we make sure about all these things that you have been winning around here? How do we make certain that we can hold onto that land, hold onto your rights to be able to go down and go to look after sacred sites - all those things? How do we hold onto those things? You have to decide whether it is all right just having them in law or whether you want to put them in this special law, the one that does not change.

This law, this one, it is like that land that you are on all the time. It is not like the wind, that keeps changing all around there. It is something really strong. It is not something for governments to go changing around. It is something for the people. If the people want to leave these things the way they are, when it goes in, it can stay one way for hundreds and hundreds and hundreds of years. Only the people can change that law when we put it in. Only people can put them in.

Everybody has got to vote. Everybody has got to decide. That is why everybody has got to talk about it, because some things might be really important for miners, some things might be really

important for pastoralists, some things might be really important for the town mob and other things might be really important for a Chinese mob. But some things are really important to you mob, so everybody has got to talk, and everybody has got to listen to each other. Everybody has got to understand each other. So, here in the Northern Territory, we want everybody listening, understanding, and talking about this one, and getting something we all agree on. When we all agree, then we are right. We are putting them in, and we are going ahead then, and we can all agree on that constitution and we can go ahead. We can talk after that about statehood or something like that, but the first thing is to try and get this law.

We do not want it to be done by a mob of clever fellows or lawyers or someone like that, sitting up in Darwin in some flash building up there. People out here have got to be talking about it, working it out, because you mob are all Territorians. That is what we are. We are all Territorians. We are all thinking about how we are going to live in the Northern Territory, how our kids are going to live in the Northern Territory and their kids, so we are all equal. We have all got the same rights to talk about this law and work out what it should be.

Inside this book here, there are lots of different ideas about things that you might want to put in there. It says about courts and human rights, like being able to talk and religion, owning land, about sacred sites and land rights and all that sort of thing. We have got to look at that book, and then we have got other ones here. We are going to leave some of these behind too. It just takes every little thing and then talks more about it so when you mob can meet, everybody can look at this one, and then you can talk about what it says in this one too. People can go through all those different ideas, and then the communities can argue about it and say: 'That one is really important. It should be in there, or can we put it in this other law?'

As people work up their ideas, you can send off asking questions. You can put them on tape and you can put them in language. We can get them translated all right. Or just get somebody to write them out for you and send them off. If you are not sure about something, we can send something back. We are working up how we can send out tapes in language so everybody can hear and understand what the ideas are, and hear what other people are saying. Because you are going to have to hear what people from the Top End are saying, what people from Darwin are saying and what people from Alice Springs are saying. They have got to hear what you are saying, so everybody is hearing everybody else and working out how these things are going to go.

It is going to be long job. This first one might take us 3 years or 5 years - but that does not matter. People have been living on this country for thousands of years. People will still be living here thousands of years in the future. What is most important is that we get it right. Get it properly done. When we get it right, get it properly done, okay, then the Northern Territory will be able to say that we did a good thing. We got that one law. It is not going to be changing all the time that one law that we can all look at - white fellow or Aboriginal, Chinese, Filipino or whoever and say: 'That is that law that says what we all believe in for all Territorians and that is the thing that looks after our rights and makes sure government cannot change them or take them away from us'.

Okay, that is all I want to say for now. We will just ask if anybody has got any questions they might want to ask about how we are going to do it or something that we talked about that was not clear, or something like that. We can just keep on going strong like that.

Mr HATTON: Rick only wants to say a couple of words.

Mr SETTER: Thanks Steve and Brian.

What Steve and Brian have been talking to you about is the need to make this new strong law to control the politicians, and that new law is going to be called a constitution. That is what this book is about, a new constitution, because in the Northern Territory we do not have a constitution. We are only a territory. We are not a state.

In Australia, this great big land we have called Australia, we have the Australian government, the boss government up there, which looks after the whole of Australia. Then we have 6 states, Queensland, New South Wales, and so on, and each state has its own government. The Commonwealth government and each of those state governments all have their own constitutions, and those constitutions are like the Bible. They are a very strong law which each one of those governments must follow. But, in the Northern Territory, we are not a state: we are only a territory.

You know, a long time ago, we used to be like these small children, and the Commonwealth, the federal government, was like the parent. Then, 10 years ago, we got self-government so we have grown up and now we are like a teenager, but still the Commonwealth government is our parent. But one day we are going to grow up and become an adult but, when we do, we need the constitution. That is very important because you fellows here, when you go to Camooweal, you are in a state. That is in the state of Queensland and they have their constitution. When you come this side of the border, to the Northern Territory, we do not have a constitution. We do not have the same Bible that they have over there, so we need to develop a constitution of our own.

Now, it is very easy for us fellows in Darwin to sit down and write a constitution, but it may not be what you want. That is why we come here to your community to talk to you about it and ask you what you want in your constitution. That is very important, because we do not want to write it without consulting with all of the people. We want you to ask us questions, if you do not understand, and we will try to explain as best we can what it is all about.

Thanks, Steve.

Mr HATTON: Thanks, Rick.

Well, that is what we are here for. We are here to say, if you want this law, if you want the Northern Territory to become like a grown-up, like an adult, well you decide for yourself what you want. You don't want to have somebody else telling you how your life should be. This is your chance to think about making the law, the main law, the law that is the boss over the government the courts, everything, the law that belongs to the people, all the people. As we said, these books here they are just for some ideas to think about. You see that big book - this one - that has got other ideas too.

We have looked all over the world, for 3 years, to come up with those ideas. I can tell you, there are things inside here I do not like. There are things inside here you will not like. There are things in here I do like too, and you will like some things in there. But we have put them all in there

whether we like them or we do not like them so you can think about them. There might be some things we forgot. Well, you tell us. If you think we have forgotten something, you tell us about it so we start writing a good law. What is important is that you start thinking about it, read this and have someone talk to you about it. We have got the videos. Start thinking as a community, and for yourself, what you think should be there.

Our committee will come back later. It may be at the end of this year or early next year, and then we are going to ask you what you think. And, between now and then, if you want to know more stuff, you just ring us up and ask us. The telephone number - you are not on the phone out here are you?

A person: Yes.

Mr HATTON: You are? Well, that is all right. I have got to be careful of that one. Some places I go, they have got the phone on, and other places they have not. You ring us up. There is a phone in there. It will cost you nothing to ring us up. You see this lady there. She will be at the other end of the phone and she will get whatever information you want and send it out to you. If you need someone to come out and talk to you about some things in here, ring her up and organise a time when someone can come out here and talk to you about it. It is important. It is important for you and your children and your grandchildren that you do this job.

Have you got any questions, any things you want to ask us, if you are not sure what I am talking about? Do you know what we are saying? Do you understand what we are saying?

Persons speaking in their own language amongst themselves.

Mr EDE: I just want to make it clear. We are not asking everybody to say now whether it is good or bad or what there should be in the constitution. We do not want to know that now. We are just here in case people are not clear what is going to happen. All we are doing now is just opening up. It is just starting. We are just going to open it up now and what we are asking is for everybody to talk about it after we have gone away: what you reckon are the most important things, what should be in this one, and how can we go about doing it. Then we want you to sing out to us, send word out to us about what is going on, about what everybody reckons about it and start working ideas together for when we come back next time. Or you can send it in by tape or whatever. So, it might be that people reckon they are not clear about what we have said so far. Well, we are ready if you want to ask a question about it or, if it is all clear, we can shoot off and everybody can get on with work and get all their own ideas and think about what you want to have in it.

Persons talking in their own language amongst themselves.

Mr EDE: After we have gone, have a talk to the school about when they set up the school council here and the things that they put into the constitution for the school council. They needed to have a constitution as to how they were going to run that. And the council here, it has got like a constitution of how it is going to run. It says things about how you are going to have elections, how many people can be on the council, how many times you have got to have meetings - all those sorts of things. This really just like a big one from there, because it is not just covering Alpurrrulam, it is

covering all the Northern Territory, so it might have some more things in it. It is more powerful, because it goes on top of this.

When these were done in Queensland, Western Australia and South Australia 100 years ago, all that happened was that a few politicians and lawyers got together in a room in Brisbane or Sydney or somewhere, and they did it themselves. They did not go out to the people and ask them what they wanted in it. So some of them have not got much in them, but we want to do it differently here in the Northern Territory. We want to make sure that it really does belong to the people and that everybody has a chance to talk about it. That is why we have come out and asked for everybody to think about it.

Mr HATTON: Thanks very much for listening to us. I hope you now start to talk about it amongst yourselves and you let us know if you want us to come back. Okay?

A person: yes.

Mr HATTON: Thank you.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

ALI CURUNG — Tuesday 18 April 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 JAMES

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

ISSUED: 27 July 1989.

Mr HATTON: Ladies and gentlemen, I am going to have to yell so that you can hear me. I hope that you understand what I am trying to say. My name is Steve Hatton. I am the chairman of this committee of the Northern Territory parliament. It is a committee that will write a constitution for the Northern Territory. I have with me a man whom you know, Brian Ede, your local member, and Mr Rick Setter, the member for Jingili in Darwin. They are also members of this committee. If you look in the back of that book, you will see the photos of all the people who are on our committee. You will see that there are 3 people from the government side, the CLP side, and 3 people from the Labor Party side, the opposition side. We are equal numbers. You know that on many occasions the CLP and the Labor party argue and fight about things. Sometimes, however, we both believe that something is really important for the Northern Territory and we want to work together to get it going properly. This job of writing a constitution is one of those things and so we are working together. We are both saying the same thing and working with the Northern Territory people to try to get this job done.

You have all heard lots of things being said over the last few years about the Northern Territory becoming a state. Some people think that is a good idea and that we should do it really quickly. Other people think that we are not ready yet and that we should hold off for a while. Other people do not want a state. Today, we are not asking you if you think statehood is good or bad. That is another question for another time. Before we can even think about that question, we have got to ask ourselves as Territorians what we want this Northern Territory to be like for our children and our grandchildren. How do we want it to work? What sort of rights should we have and how do we protect those? What sort of a place do we want to leave for our children? When we all agree on what we want, then we can start talking about becoming a state, but not before that time.

Our first job is to work out what we want this Northern Territory to be like for our children and for our grandchildren. The way that we do that is that you and all the people in the Northern Territory make their own law. It is called a constitution. It is a law of the people, a law that is there for all time, a law that is boss over the government and boss over the courts, a law that tells the government what it can do and what it cannot do. It is a law that can protect the really important rights of the people. It is a law made by the people, a law that the government cannot muck around with. If it wants to change that law, it must go back and ask the people. If the people say no, the government cannot touch it. Do you remember that, last year, you were asked to vote in a referendum to amend the Australian constitution? You had to say yes or no to 4 questions relating to the federal constitution. The people had a look and told the government to leave it alone. The government could not touch it because that is the people's law too.

The same would apply if we had a constitution. All the states in this country - Queensland, Western Australia, South Australia, New South Wales, Victoria, Tasmania - and the government in Canberra have a constitution over the top of them, a law over the top of them. The Northern Territory does not have that. There is no law like this and so the federal government can do what it likes. It can give you things and it can take things away from you and you do not have any say except to vote for people. But, if we all write this law and make it strong and good, it will become a law that will tell the government that it must do this and must not do that. It will place rules on it.

We have come here to tell you about this job. It is just starting today, this week, this year. It is a long job which is going to take a lot of work. It is not going to happen quickly because it is the people's law. The people must write that law, not the politicians, not the lawyers, not the university men. It must be owned by the people and it can only be owned by the people if the people write it and ensure that they are happy with it. It is strong because it comes from the people. In many ways, it is like Aboriginal law which is there forever, does not change and sets the ground rules for your life. This constitution is a white man's way of doing the same thing. Governments will change and they will make different decisions but, at least in regard to those really important things, they must keep going in the same way all the time. However, that can be done only if the people make it that way. The people must make that law and we are here to tell you that you must start thinking about what is important to you as a Territorian, what is important to you in your life, your religion, your land or whatever. You have to think about what should go into this law that the government cannot muck around with.

I know you will want to tell me now, but I do not want you to tell me now. I have come here today to say we are starting this job and to ask you as a community to talk about this, to read the material, to listen to what other people are saying and to get your ideas together. When we come back later, you can tell us what you think should go in there. It is our job to find out what you want. After we have heard the ideas of people from here, from Arnhem Land, from the Centre, from Darwin and Alice Springs and everywhere else, we will sit down and write out what we think the people are saying to us. After that, because you can't merely trust politicians on this one, we will form a big committee of representatives from all over the place who can speak on behalf of the people, black and white, Chinese, the city people and the bush people - everyone. These people will look at our work, perhaps make some changes and write it up again to ensure that it is what the people are saying.

Our job is to come up with the ideas of the people and put them to that big committee called a constitutional convention. The job of that convention will be to write the constitution. When they have finished doing that, they will put it to the people to vote on. If the people vote yes, that is the law. If the people vote no, we will have to go back and start talking and working again until we get the one that the people say that they want. It is the people's law. It is a law that will say how this Northern Territory is going to work, not just next year, but in 10 years, 20 years and 100 years. If we do this right, our grandchildren will look back and say that we did a good job and made a good place for them to live. If we walk away from this job, if we do not do it, and we keep mucking around like we are doing now, they are going to look back and say that we were no good, that we did not do the job that we should have done for them.

We have a responsibility to our children and our grandchildren to make a place that will be good for them. We do that by working together to write this law so that all the people of the Northern Territory can come together and go forward together in a good place where people can live together with respect. But you have got to write that law, not me by myself. All of us have to write it together so that we can all say that is what we want. That is our job. My job is to get you to talk, to think, to have your say in this really important job. Everyone in the community, black and white, has to live together properly in the future. We have to write a law that enables us to do that. We must make our own law, not have some bloke in Canberra telling us how to run our lives. We

must stand up like adults and say that this is how we are going to live and that we are going to make this a good place for all of us.

That is what our job is. As I said, there is no time limit. We have got to do this one properly and we have got to do it together. If we do that, we will have a good place, something we can be proud of and we will have done a job that will make our grandchildren proud of us. To help you with that, we have done a bit of homework. This book will give you a few ideas. We have a thicker book here and we will leave some copies with you. That has ideas from all over the world that you can think about. You might like some and you might not like others. That is all right. You might think of things that we did not think about. That is all right too. You must have your say and tell us what you think is good and what you think is bad. It is the only way. You must have your say and become involved if this job is to be done properly. We are here to ask you to become involved and work together for the future.

Mr EDE: People often say to me: 'What is a constitution?' I can tell you what it is a little bit like. Today is Tuesday. On Thursday, some people from the Department Education of will be coming up here to Ali Curung to ask you how you want your school to be run. People have been talking about changing it to make it a full Aboriginal school. The people from the Department of Education are not going to do that on their own. They want to find out what the community wants, what you people want. If they come here and nobody says anything, everybody just keeps quiet, they will go away and nothing will change. But, if people really want their school to go in a certain way, they will stand up and speak out at that meeting on Thursday. They will say: 'This is how we want our school to run' They will tell those people that that is what will happen. That is a very important thing for the school, a very important thing for the education of all the young children here and an important thing for the community.

The constitution and the work that we are doing on it is a bit like that, but it is not just for education and it is not just for Ali Curung. It is for all the people in the Northern Territory and for all the things like education, health, parliament - everything. The constitution is about the way in which everybody wants the Northern Territory to run in the future for their children, for their children's children and forever. What sort of Territory do we want? Do we want one where there are continual arguments about land rights, sacred sites or do we want to put all that behind us and work together?

There is another thing that people say to me. They say: 'Hey, you are in the Labor Party. What are you doing standing up for these CLP mob and coming around on this meeting?' I am doing that because I believe that, if we can get some really important things into this constitution, they will be things we will be able to hold on to for a long time. When I travel around talking about things like laws that affect the Northern Territory, people say: 'This whitefellow mob, their law goes like this. It is not like Aboriginal law which goes straight and comes from way back. It goes straight ahead and does not change. Whitefellow law is going all over the place. Sometimes we agree with it and sometimes the two go bump and we have an argument'.

That is why, with this constitution law, we are trying to find out what everybody wants and what Aboriginal people think are the important things from their law that they want to put into that constitution so that the two of them can go side by side. On those things then, you would have whitefellow law going the same way as Aboriginal law and we would not have those arguments

about sacred sites or land rights or whatever. I cannot put that in that law because I am only one fellow. It has got to come from all the Aboriginal people. They have to all stand up and say that that is what they want. I am not letting them make this constitution up in Darwin where some clever fellow is sitting in an office in air-conditioning somewhere. No way. That is why we are out here talking to the people. That is why we are finding out from the people all around the Northern Territory what the things are that they want and what things are really important to them.

We are not asking you to stand up today and answer straight back. No way. We have come out today just to open it up, to tell you some things and give you some books so that everybody can talk about this and think about it ...

NOTE: NEXT TAPE (106) HAS NOTHING ON IT. IT SHOULD HAVE HAD THE CONTINUATION OF Mr EDE'S COMMENTS AND THE BEGINNING OF Mr SETTER'S.

Mr SETTER: ... The Northern Territory is not a state. As Steve said, we are not here to talk about becoming a state. And that is true. That is a question or an argument for some time in the future. But, it is very important that we develop this new law, this constitution. It is like a bible, a very strong law. We need to develop it now for 2 reasons: (1) it will give us protection because it will enshrine certain things like land rights which cannot be changed or it is very difficult to change them and (2) it will be a stepping stone towards becoming a state.

At the moment, we are a territory and we do not have the same rights as the states have. If you go back in time, prior to 1978, our relationship with the Australian government was like a little child to a parent, to an adult, the father or mother. The Northern Territory was just a child and the Australian government was the parent. In 1978, we achieved self-government. For the first time, we could make most of the decisions affecting our future here in the Northern Territory. That is when Steve and Brian and myself and our colleagues in the parliament formed a self-governing government for the Northern Territory. That was the next step. So, in 1978, we grew up from a little child to a teenager. We are still not an adult. When we develop a constitution, that will be a next step. That will bring us up almost to the same as our brother and sister states, not exactly the same but almost the same.

That is why it is important. We need the same protection that all those brother and sister states have. At the moment, the parent, the Commonwealth government, can come along to the Northern Territory and tell us to do things and we have to do them just as you fathers and mothers tell your children what to do and they must do it. But, when your son or your daughter grows up and becomes an adult, they make their own decisions. And that is what we want to do. We want to grow up and make our own decisions. That is very important and developing this new law, this constitution, is part of that growing up process. But, as Steve and Brian said to you, it would be very easy for us to sit down in Darwin and write a constitution for you without asking you. But, that is no good. We are here today to explain to you what we are doing, to ask you to think about it, to read the books and to have meetings so that, when we come back later this year or early next year, we can have another meeting and you can tell us what you think. We are very interested in your opinions. I ask you to talk about it and think about it and be ready to discuss it with us when we come back to this place next time.

Mr HATTON: Thank you, Rick. We have done enough talking. We are not here today to find out what you think should go into this constitution but to try to explain what we are doing and to provide you with information so that you can go away and think and talk about it as a community. If you are not sure about something or if you want more information about some things, there is a telephone number in that book that you can ring. It will cost you nothing to ring up because it is a free phone. Our people will send you the information. If you want us to come back and talk about something, we will come back and talk about it to help you think about it so that, when we come back later this year or early next year, you will have had a good chance to talk properly about it and you will be able to say what you think. You can tell us next time. That is what we want.

We also want you to think about who should go on that big committee. Who should be the representatives on the committee to look at the work we do? That is important too. It has to be the right one. We have all got to think carefully about that. I am not going to say anything more now except that, if you do not understand something that we have said, please ask us now. Does anyone want to say anything? I am not trying to force people to talk. I just want to know whether you want to talk, whether you want to ask any questions or whether you just want us to go away. I do not mind either way.

Mr JAMES: We will read it and think about it and, when you come next time, we will ask questions then.

Mr HATTON: Yes. Are you getting some idea of what we are trying to do?

Mr JAMES: No.

Mr HATTON: Not quite yet. Do you understand what we are talking about with the constitution?

Mr JAMES: No, not really.

Mr HATTON: You are talking about going to community government. You have got to sit down and work out all the rules about how you are going to elect the council, who is going to run the council and what the council can do and cannot do. You make the rules for it. Well, it is like that sort of job except that it is for the whole Northern Territory. As a community, you have to sit down and talk about things for the council and you have to do the same thing for the Northern Territory. It is a bigger job because there are a lot more people to talk to.

That book there will give you some idea about it. That green book - and we will leave some copies for you - has got some more ideas in it. As Brian said, you might think there are some of your rights that you do not want the government to be able to muck around with. It might be the right to vote. You do not want the government to be able to touch that. It might be your right to speak freely or the protection of your religion. Those are the really important things that you put into a constitution. Okay? The other things that are not so important can be put in the laws and you can argue with the government about that and vote about those things. However, the constitution is there all the time.

Mr EDE: Does anybody have any questions or anything to say about the things that we have been talking about. If so, we ask you to use that microphone so that we have what you say down on a tape-recording. It does not matter whether it is in language or whatever. We will take it back and write it all out.

Mr HATTON: It is not many times that we have a chance to make the rules for the government. Brian Ede sometimes uses the example of a dog that is always biting people. You put a rope around its neck so that it can run around within the length of that rope but it cannot get outside that area. If we think that the dog is really crazy, we give it a short rope and perhaps a little more later on. That is what you are doing with a constitution. You are putting a rope around the government's neck so that it can only go around in a certain area and not go outside it. That is where the people have the power.

Mr JAMES: The only way is to get an interpreter to interpret the different languages. Some of the people cannot speak English.

Mr HATTON: Yes. We are going to try to put what we are saying in different languages on tapes or videos so that people can listen to it. We will also try to get the books on to tapes in language.

Mr JAMES: They will put it on to tape and send it out.

Mr HATTON: What is important is for you to know that this is not going to be a rush job. We must make sure people understand what they are doing. What we have to do is to help people understand so that they have a chance to have their say about it.

Mr JAMES: You can't rush it.

Mr HATTON: If this job was done really quickly, I reckon it would take us 3 to 5 years. That is a quick job.

Mr JAMES: (Inaudible).

Mr HATTON: If you want us to come back again just to talk about some of the different things while you are thinking about it, just tell us. We will organise a time and come down when it is convenient and talk more about different things.

Mr JAMES: (Inaudible).

Mr HATTON: Special seats for Aboriginals. They have that in New Zealand. They have certain seats for Maoris in the parliament. It is important to remember that the Maori people do not get 2 votes. You could have 2 seats or 4 seats out of 25 for Aboriginal people.

Tape ends.

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

JURNKURAKURR — Wednesday 19 April 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 Pat BURKE
Mr John HAVNEN
Ms Betty FINLAY
Ms Shirley LEWIS

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

ISSUED: 27 July 1989.

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

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

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

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

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

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

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

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

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

You cannot let politicians write it and you cannot let the lawyers write it. The people have got to write this. It has got to be the people's law. It has to come from the people. It has to be their law and say: 'That is mine, government. You don't touch that'. And the only way we can do that is if you get involved. You have to talk about this amongst yourselves. Think about it. Think about what is important and what you think must be in there. You have your say to make sure that it gets in there. The way we are going to go about doing this job, to make sure that you have a chance to have your say, is this: we are going around now and we are talking to people like this and saying we are going to do this job. We are going to talk to you about what sort of things you can put in a constitution and how to go about it. Then, we are going to go away and say we want you to sit

down and think about it amongst yourselves. If there are things you are not sure of and you would like more information and you would like us to come back and talk about bits and pieces of it to help you in your thinking, we will do that.

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

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

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

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

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

Mr HATTON: Oh, that is not true.

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

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

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

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

A person: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr BURKE: You are not talking uranium.

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

Mr BURKE: From Canberra.

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

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

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

Mr BURKE: If you make it a state?

Mr HATTON: The same.

Mr BURKE: You cut it back again.

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

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

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

Mr BURKE: Through their taxes!

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

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

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

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

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

Mr BURKE: You are not a real Territorian.

Mr HATTON: Huh?

Mr BURKE: You are not a real Territorian.

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

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

Mr BURKE: With what?

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

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

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

That is the sort of job we are trying to do. All those issues about the money, about the national parks, about the mining and about the Land Rights Act, all that sort of stuff, they are questions that maybe come up in statehood. You cannot even think about that until you say what

you want this Northern Territory to be like. Here is your chance, your real chance, to have a say in that. The job has to be done. It really is important for you to get to talk, to think and to stand up and speak and have your say. Don't let somebody else speak for you. Don't say: 'Oh, it is too hard. Let somebody else do it'. In 3 or 4 years time, when they have done most of the job, it is too late then for you come back and say: 'Hey, why didn't you talk to me?' We are talking to you now, before we even start the job.

Mr BURKE: You have your constitutional members?

Mr HATTON: Sorry?

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

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

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

Mr HATTON: Maybe.

Mr BURKE: From every area.

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

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

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

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

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

Mr HAVNEN: Aboriginal people should be represented.

Mr HATTON: I agree. How many Aboriginal people?

Mr BURKE: Half and half.

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

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

Mr BURKE: As I said, Steve.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Look, Brian will have a few words too.

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

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

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

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

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

People talking among themselves.

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

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

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

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

But if, in the next election, the Labor Party got chucked out down in Canberra, we have only got one House of Representatives member up here that we can go for, Warren Snowdon, and there are 140 or something else around the place. What if the Labor Party gets chucked out and some other mob comes in, and they say: 'There's that law, that land rights law that they put in back in 1975-76'. What if they put that one in, they come and they chuck that out? What can we do? We are just one place. All that mob from Queensland, New South Wales and Victoria, what if they all gang up on us? That is the main reason why I am backing up the idea of this constitution, because I reckon that what we should be able to do is lock in the really important things, like that

land, the land rights, like sacred sites, and that business about law. We should be able to lock them in so the white fellow law can't continually come and be trying to push them each way.

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

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

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

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

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

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

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

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

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

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

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

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

Ms FINLAY: We see that you are asking us now for this law. In the long run, we as Aboriginal people fear that this place will become a state. That is No 1. And then we will have troubles. We will not have any royalties or any land rights because we know that statehood is white (inaudible) and that's the fear we have at the community, and that is why we don't want the constitution that has been talked about. Take it back to the Legislative Assembly.

Mr HATTON: Right, can I just say this to you. I don't believe it would happen, no matter who comes into government in Canberra. I don't believe it would happen in the Northern Territory, no matter who is in government. I know the CLP government is not going to take away land rights. I know that. You don't believe me and I accept that, but I know that they're not going to. I tell you

now that they are not going to. But I say this, I don't believe they will in Canberra either, but I do know this. If the people in Sydney and Melbourne change the way they are thinking about land rights and it becomes important politically for some mob to get elected into Canberra to be against land rights and they go bad on it, they have the power to take it away. You have got no protection against the government taking land rights off you from Canberra but, if you put it in a constitution, no government can touch it.

Ms FINLAY: We have ...

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

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

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

Mr BURKE: Yes for sure.

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

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

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

Mr HAVNEN: (inaudible).

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

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

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

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

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

Mr HATTON: (inaudible).

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

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

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

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

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

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

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

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

Ms FINLAY: It is no good.

Mr BURKE: Yes.

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

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

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

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

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

Mr BURKE: ... the Northern Territory

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

People talking.

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

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

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

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

Ms FINLAY: Not personally me, everyone.

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

Mr BURKE: (indecipherable).

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

Mr BURKE: What one?

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

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

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

People talking over each other.

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

They said that Aboriginal people in Tennant Creek represented by Julalikari Council did not want statehood. The council believed that the interests of Aboriginal people and non-Aboriginal

people were best protected by keeping powers with the federal government and maintaining the powers and responsibilities of Aboriginal housing organisations also. I guess that extends to remote communities also.

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

Mr BURKE: That is through statehood.

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

Mr: we ceremony people.

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

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

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

A man shouting.

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

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

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

to support us on that. We know that, across the broad spectrum of the Territory, we will not get agreement.

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

A person: (indecipherable).

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

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

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

Ms FINLAY: (indecipherable).

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

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

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

Mr HATTON: Good.

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

again. If, in 10 years time, we turn around and something is up there and people still say 'no', we will start again.

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

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

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

Mr HATTON: Can I say too - you said you want time to think about this and to talk about it amongst your own councils and your own people to see what you like, what you don't like. You don't want to be rushed on this. You want to sit back and have a look at what this is all about, and come to understand what it is all about before you start saying anything. Well, I agree with that. I support that. That is why we are here now. We do not want you to say yes or no. We are saying that we want you to go away and start thinking about it. Start to have a look at some of the stuff that has been written about it. Talk about it amongst yourselves, have a think about it and, when you want to tell us something, when you have had a good think about all the points, come and tell us about it. We are not trying to rush you. We do not want to rush you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr SETTER: That is fine.

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

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

Mr HATTON: Yes, sure.

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

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

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

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

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

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

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

Mr BURKE: (indecipherable).

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

Mr HATTON: That is right.

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

Mr BURKE: (indecipherable)

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

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

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

Mr EDE: (inaudible).

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

Mr NICHOLSON: There is also the question of whether the statehood is granted by a national referendum. If it is granted by a national referendum, you can build in whatever protection you like.

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

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

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

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

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

ELLIOTT — Wednesday 19 April 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:

Ms Donna SCHUBERT
Mr Jim RENNIE
Melissa
Mr Kerry GARDINER
Mr Marcus DIXON

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

ISSUED: 2 August 1989.

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

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

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

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

Ms SCHUBERT: Is that right?

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

Ms SCHUBERT: By the people, for the people.

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

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

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

Ms SCHUBERT: No, I did not.

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

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

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

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

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

Ms SCHUBERT: It has acquired freehold land too.

Mr HATTON: Yes.

Ms SCHUBERT: It has amassed areas of freehold land.

Mr HATTON: And not paid for it.

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

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

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

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

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

Mr HATTON: That is right. No doubt, they will all be a part of the negotiations. In terms of the level of constitutional entrenchment, we must remember that Aboriginal people are saying very clearly: 'It is all very well, but if we are going to look at this sort of thing, there are some things that

we regard as essential for us for the future. We want to ensure that you are not going to rip all our land off us again. We got this land under land rights and there might be different ways the Land Rights Act might work but we want to have some protection so that, if we become a state, you are not going to turn around and take all our land back and leave us destitute again'. That is one thing that is important to them.

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

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

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

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

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

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

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

Ms SCHUBERT: Yes.

Mr SETTER: Back to the point that Steve mentioned.

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

Ms SCHUBERT: Yes.

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

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

Mr HATTON: No.

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

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

Ms SCHUBERT: Yes.

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

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

Mr HATTON: They are called Territory taxes.

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

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

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

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

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

Mr HATTON: I think it will take a long time because of how we propose to go about it. It is essential that this constitution becomes very much the document of the people and people have a sense of ownership of this as their law. At the moment, we are not even asking people what they think should be in it. We are simply explaining that we are about to start this job and we want

people to start thinking about it, talking about it within their communities and getting their ideas together. Later, if you want us to come back to talk about particular aspects, we will do that. We will come back and address individual issues or the entire matter.

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

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

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

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

Basically, that is what we came here to say and also, of course, to answer any questions that you might have. We have put together what could be called a beginner's guide to give people the basic idea of a constitution and the sorts of things it contains. We have another book, a larger one,

which is called a 'Discussion Paper on a Proposed New State Constitution for the northern Territory'.

Ms SCHUBERT: Have you got copies of that?

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

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

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

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

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

There are also questions such as whether there should be constitutional entrenchment of land rights and protection for Aboriginal law, culture, language and sacred sites and, if so, how. You would not write the Land Rights Act into the constitution but maybe something to the effect that

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

Rick, do you want to add anything?

Mr SETTER: I think you have covered it pretty comprehensively, Steve. But, I think it is probably important to reflect for a little while on the history of this place. In the early 1800s, the Northern Territory was first taken under the control of New South Wales and was part of the colony of New South Wales. It remained that way until 1863 when it was passed over to the colony of South Australia. It remained with South Australia until 1911 when it was passed to the Commonwealth. It was tossed from pillar to post because of the difficulties in administering and servicing it because of its remoteness. As Steve mentioned, apart from a single brief reference to territories, the Australian Constitution is aimed directly at the states and the Commonwealth and their relationship. Thus, we do not have any constitutional rights as such.

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

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

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

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

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

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

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

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

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

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

Mr HATTON: Yes, although I am not sure it is a great advantage to be engaged in foreign borrowing. As a government, I know that we do not like the idea of foreign borrowing. There was a small loan taken out in Japanese yen as part of the borrowings for Yulara and we were caught with the devaluation of the Australian dollar. We borrowed 160 yen to the dollar and it is about 110 now. There are real problems with that unless you hedge against currency fluctuations. We are not really keen on going overseas to borrow money. We have done it all within Australia by choice. There would be some marginal shift in our rights but, at least, at some stage we should be able to represent ourselves in the Loans Council.

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

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

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

Ms SCHUBERT: They call it propaganda.

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

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

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

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

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

Mr RENNIE: No, that is right.

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

Mr RENNIE: Some. Not everyone.

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

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

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

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

Mr HATTON: We have. The Department of Education now has a parliamentary liaison officer putting together a parliament, government and states program. The constitutional development process is being built into the states program. It might be available from next year.

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

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

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

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

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

MELISSA: What in language?

Ms SCHUBERT: No. They have exactly this.

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

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

Mr GARDINER: Perhaps even simpler documents than this one. I realise that there are very complex issues involved and I can see that attempts have been made to adopt a simple

approach. However, you are dealing with illiterate people and you need a much more diagrammatic presentation of ideas.

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

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

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

Ms SCHUBERT: It will be unique?

Mr HATTON: Probably.

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

Mr HATTON: Maybe the people will come back and say that all they want in it are half-a-dozen basic things. That could be done: provide for the parliament, the courts, the administration, voting rights and leave it at that. That is what some states have done. You could do that tomorrow if you wanted. Or perhaps you want something like the New Guinea Constitution that deals with all sorts of additional laws and complex issues. The community itself will sort that out. The community itself will make those sorts of decisions. I do not want to make them for you. None of us wants to make them for you. It is for you to tell us.

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

Mr HATTON: Sure. It will become their property.

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

Ms SCHUBERT: Win some, lose some.

Mr HATTON: It will set the foundations.

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

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

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

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

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

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

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

MELISSA: Yes.

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

Mr SETTER: Are there any other questions?

Mr HATTON: Okay, thank you very much.

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

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

SELECT COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC MEETING

BORROLOOLA — Thursday 20 April 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:

Ms Anne WENKE
Mr Ron KERR
Mr Bernie WENKE
Ms Fiona DARCY
Ms Judy RETTER
Mr Charlie POWICK

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

ISSUED: 1 August 1989.

Mr HATTON: I am not sure what is happening in respect of the Aboriginal people here. There has been a clash with meetings between the Northern Land Council on another matter and I understand they have gone down to try to organise the Aboriginal people here for the meeting. I am not quite sure what the timing is likely to be for that. I propose to proceed with this meeting now and, when the other people arrive, I will just start again. I do not think it is reasonable for you to be sitting around for some indeterminate period. We do not know whether people will arrive or not. If it is all right with you, I will proceed to explain what we are here for.

My name is Steve Hatton and I am here as the chairman of this committee of the Legislative Assembly. It is called the Select Committee on Constitutional Development. There are 6 members on the committee, 3 from the Country Liberal Party, the government side, and 3 from the Labor Party, the opposition side. It is the only committee of the Assembly that has equal representation of government and opposition. The reason is that, in this particular case, we are not engaged on our party political warfare. This is an instance where the parties are actually working together for a common objective. The gentleman with me is Mr Rick Setter, the member for Jingili, who is a member of our committee. If you look at the back of this publication, you will see the names and photographs of all 6 members of the committee. You will also find the terms of reference of the committee.

You have heard a lot of discussion over the last few years about the issue of statehood and whether the Northern Territory should become a state. The first thing that I have to say to you is that we are not here to ask you whether you support the idea of statehood for the Northern Territory or are against it. We are not here to sell the idea of becoming a state tomorrow. We are not even asking that question. We do ask you, however, to recognise that, one day, whether that is next year or in 5 years time or 10 years time or 20 years time, the Northern Territory will become a state. Before you can even think about that question, however, you need to know what you are walking into.

What sort of a place do we, as Territorians, want the Northern Territory to be like in the future? How do we want our government to operate? What sorts of things should we allow government to do? What do we want the government to be able to muck around with? What sort of a society do we want to create for our children and for our grandchildren? What sort of rules are we going to put round the government and general life of the Northern Territory? This is done by the people setting the rules. They set those rules by means of a law which is known as a constitution. A constitution is very much the people's law. It sets the framework and the ground rules for government, for the legal system and for the protection of individual and community rights. Within that framework, the governments and the people work.

The way in which you write that constitution sets the direction in which your society will go. That is the law that becomes the government over the government. If you have a government but not a constitution, the government can do what it likes. A constitution does not give powers to government. A constitution gives power to the people and controls and limits the power of government. The people tell the government that it can go so far and no farther. All the states and the federal government have a constitution standing over the top of them. Some of those constitutions are flimsy affairs and some, like the federal constitution, are fairly comprehensive and tight and indicate what a government can do and cannot do. The Northern Territory is the only

place in Australia where there are no constitutional limits on government. It is the only place where the people do not have their rights protected by a constitution, not even by the federal constitution. There is only 1 clause in the federal constitution that refers to the Northern Territory and that is clause 122 which says that the federal government can do what it likes with a territory. And, as you know, it does that.

One of the things that the federal government wanted to do was to create a self-governing territory and therefore it passed a federal act to create a Northern Territory parliament. But, what governments can give, governments can take away. It would merely require the federal government to repeal an act of parliament and all form of government and political representation in the Northern Territory would be wiped out overnight. Your right to vote for a political leader could be taken away. I am not suggesting that it would happen. I am merely saying that that is the extent of the power that the federal government has.

Aboriginals have been talking about how strong land rights are and how they want to keep the matter with the federal government. What the Aboriginal people need to know is that they have no guarantees because what the government gives, the government can take away. If the federal government changes or the attitudes in Sydney and Melbourne really change against land rights and it became politically expedient, a future federal government could repeal the Land Rights Act and all that land could be taken away. It has the power to do that. Not only that, in the Territory, the federal government has the power to acquire property without compensation for whatever purpose it wants. Again, this is because we do not have the protection of the Australian Constitution.

For the first time in the history of the Northern Territory, we are asking the people to take control of their lives and write the rules on how you want the Territory to be. What rights are fundamental and important to you? What rights do you want protected against government intrusion? How do you want the government to operate? What do you think the government should be able to do and should not be able to do? We need to write those things into a law, a people's law, that will stand over the top of government and give the power back to the people. Once that law is in place, governments cannot vary it, cannot change it and cannot go outside it. If governments wanted to have that law changed, they would have to ask the people to vote in a referendum. Only the people can change that law. That is what they mean when they talk about democracy and the power of the people. It is a law made by the people, for the people and it is the people telling the government what it can do and what it cannot do.

We do not have that now. We have what the government and what the federal government says can be done. We are saying to you that, as a community, we should sit down and start doing this job. I am not going to ask you necessarily today to answer all the questions or to say what you think should be in that law. I am asking you to take into account the fact that this is where your future lies and your children's future lies and where you will lay the foundations for the future Northern Territory. If you walk away from the job, you will walk away from building a future for your children and grandchildren and the problems that we have, the fights and arguments that are going on, all the things that we regard as unreasonable and unfair, will continue because there will be nothing to prevent them from continuing. The domination of your life by government in areas where you believe government should not interfere will be able to continue.

I am a politician but, in a true democracy, people cannot trust the politicians to be all powerful. People have to put the limits on that. They put the limits on that through this law. We are here to tell you that we are about to start on this work. We want the community and you as individuals to start thinking about it and to look at the material that we have provided. This book is like a beginner's guide. It indicates some of the bits and pieces that we are looking at. What is a constitution? What do the courts do, what does this do and what does that do? It will give you an idea of some of the things.

We have put a lot of work in over the last few years. We have produced some other books, most importantly that one. We will leave some copies of it with you. It is called a 'Discussion Paper on a Proposed New State Constitution for the Northern Territory' and it represents about 3 years work. We have looked at constitutions in different parts of the world, in the southern states, at the Australian Constitution and at our own Self-Government Act and we have come up with a whole series of ideas. There are some that we like and some that we do not like. There will be some things in there that you will like and some that you will not like. It does not matter. It will give you an idea of the sorts of things to think about.

You should take 1 subject at a time, think about it and talk it over. I will give you a simple example. Do you think that, in the future, the Northern Territory should have 1 or 2 Houses of parliament? In Canberra, there are 2 Houses, the House of Representatives and the Senate. Do you think that the Northern Territory should have an Upper and Lower House or just 1 House. There are arguments for and against both those proposals. That is something you can read about, think about and arrive at your own conclusion. Do you think that we should write into the constitution a guarantee of the right of all adults to vote and to vote by secret ballot so that governments cannot change that? If it is not in the constitution, there is potential for governments to take away people's right to vote. If you lock them into a constitution, they cannot do that. Should you put in there things like rights to free practice of one's religion or a range of other issues? What is the role of the courts? Can the courts tell the parliament what to do? Can the parliament tell the courts what to do? There is discussion about those one-off subjects.

There are many questions in there but you can take them 1 question at a time, talk about it, think about it and, bit by bit, formulate your ideas about this whole matter. You will develop a picture of what you think should be in the constitution and about the less important things that can be left to the legislative process but within the basic framework and rules laid down in the constitution. The things that have to remain constant go in the constitution and there is flexibility through legislation to put flesh around the bones, so to speak. That is the job that we are going to do.

How we are going to go about it? I know that Rick will agree that you cannot entrust this job to politicians or lawyers or academics. You cannot have a bunch of us sitting up in Darwin - as much as we might think we are able to do it - writing this law. It has got to be your law. It has to come from the people and be the property of the people. You must become involved in this and have your say.

We have come to tell you that we are about to start this job. We have information for you and, if you want more, we will provide it. If you would like us to come back and talk to you about any particular issue, we will do that. We ask you to think about it, form your own ideas and, when we come back later in the year or early next year, you will be able to tell us what you think should

be in the constitution. We are doing this all over the Northern Territory. On this trip, we are visiting 59 different communities and saying the same thing to them as we are saying to you. Please become involved and have your say. After we receive the submissions from all the people, we will prepare a first draft of a constitution on the basis of what we believe the people are saying.

But, that is only stage 1. The second thing we want to do is to bring together a special meeting of representatives from all over the Northern Territory. It is called a constitutional convention. It will almost certainly meet several times. The question of how many times and for how long is something for it to determine. What we need to determine is how we get such a group of people and how many there should be. What sort of representation should be on that and how do we go about selecting them? Should there be representation from local and community governments, from Aboriginals, from the business community, from the trade unions, from women etc from different areas of the Territory? How do we bring all that together?

We need to have a really representative group of people who have the confidence of, and the ability to make decisions on behalf of, the different sections of the Territory community. Their job will be vital. Their job will be to pick up the work that we have done and go through it. If we have done it really well, they will accept it but, if they think it needs to be changed, they will change it. They will debate all the pros and cons and all the arguments raised by different sections of the community as to what should or should not be done. When they have finished their job and have prepared what is called a proposed constitution, it has then to be put to a vote of the people. If the people vote no, we will have to start again. We will keep going back and working through it until we get something that the people agree is what they want.

It is clear that it will not be a quick job. We will not be producing a constitution by Christmas. If we take 3 to 5 years, I reckon that will be pretty quick. There is plenty of time for people to become involved and come to grips with this. But, I cannot emphasise enough how important it is. I know it is easy to say, 'Oh, that is too much hard work and I have a business to run' or 'I have problems with my kids' or all those sorts of things. That is true. We all have those problems. But, if we take a bit of time to think about this, we will be doing something that is really worth while. It is not a pretend job. It is why we can get the Labor Party and the CLP actually working together because it is too important. It is our chance to make the Northern Territory a place that we will be proud to hand on to our children and to our grandchildren. If we do not do this job, we will let down the future generations because we did not take on the responsibility of making a place that will be good for our children.

That is the job that we have to work at. As I said, I am happy to take comments today but, if I can walk out of here with you thinking that this is important and that you should read about it and become involved, I will have done my job. That is what this is about. We must work as a community, black and white, and find out how we can live together side by side with some semblance of mutual respect. We have to come to terms with the realities of the Northern Territory, the different cultures and races that are here and how we will bring those together as a total Northern Territory community. That is not an easy job but you know deep down inside yourself that it is a job that we have to do because, if we do not do it, we will leave a mess behind us for our children and our grandchildren. That is why we are doing this.

When we finish this job, when we know what we want and where we want to go, then we will talk about when we should become a state. We cannot even think about that until we have done that job. Rick, would you like to say a few words?

Mr SETTER: Thanks, Steve. Before I start, I want to make sure that everybody understands that this is a bipartisan committee and that Steve and I are both members of the government side. Steve mentioned that there are members from the opposition and from the government side. I did not want you to think that I am from the opposition side.

It is very important that, after years of being kicked to death by people from other places, we continue to establish our own identity and to protect that identity first of all by means of a constitution. That is what this is all about. In my opinion, and I am expressing a personal opinion, at the end of the day, we must have statehood because that will provide for us the protection that the states enjoy. But, I am not here to talk about statehood. I am here to talk about the constitution.

It is also important to understand the history of this place. In fact, many of us were not born in the Northern Territory. We came from somewhere else. That is fine. I am one of those people. I have made the Territory my home and I am proud to be able to say that. In the early 1800s, 1830-odd I think it was, the European settlement in Sydney took some interest in this part of Australia and made this part of New South Wales. It was part of New South Wales from about 1831 until about 1862 when it was passed over to South Australia and became the Northern Territory of South Australia. Many people have probably forgotten about that or did not know about it. But, in 1911, we became too difficult even for the South Australian to handle so it passed us over to the Commonwealth which had been in existence for about 10 years at that time. You can imagine how difficult it was to administer a place like the Northern Territory in those days from Melbourne, the then centre of the Australian government.

Since that time, we experienced a very chequered history in terms of development because the Territory was regarded almost as the end of the earth, given the communications and transportation at the time. Eventually, we struggled our way through to the point where, in 1974, we achieved our first self-governing Legislative Assembly. For years and years, our member of the House of Representatives could not vote. Prior to that, he could not even speak. It is only in the last couple of decades that our representative has been able to speak and to vote. In 1974, we achieved our first fully-elected Legislative Assembly, but we were still directly under the control of the Commonwealth. In 1978, we achieved self-government and that was quite a milestone. However, as Steve rightly pointed out, that is only an act of the Australian parliament which can be rescinded or amended at any time by any Australian government. That is not good enough for us. We need some additional protection and, of course, our ultimate goal is the achieving of statehood and full state rights similar to those in all the states.

As part of this process, the first step that we need to achieve is to write the constitution. It would be very simple for our committee to sit in Darwin and write a constitution. In fact, if you read this document, you will find that we have already spent about 3 years researching and developing a whole range of matters that need to be considered in relation to our constitution. In fact, with regard to some matters, there are various options because the committee, being bipartisan, did not agree on a number of issues. We have included options in there. However, we could follow that through quite simply and produce a draft constitution from it. But, we do not believe that that is the right

way to do it. We do not believe that it would be acceptable to the people for us to do it and say: 'There it is'.

What we are doing is visiting every community in the Northern Territory and making people aware of the job that we are undertaking. We are asking you to read the documentation that we have provided, think about it, discuss it and develop your opinions and, later this year or early next year, we will come back and discuss it with you again. It will be a long hard road because there is no way we will all agree about everything all the time. It is probably much more complex than any other constitution that has been written in this country, bearing in mind that the last one was the Australian Constitution and that was written before 1901. This country has changed greatly in that time and a whole new range of issues have emerged. Steve mentioned a couple, including land rights, that were not about in 1901. However, they are a reality today and those are the sorts of issues that we need to be talking about. There are the human rights issues and a whole range of other things. Whether or not they are to be included in the constitution is a matter for consultation. We are trying to reach as many people as possible and explain to them what we are doing. We are asking for input from them so that, perhaps by the middle of next year, we will be able to produce a resume of recommendations that will go to the constitutional convention that Steve spoke about before.

We are on a fairly tortuous path here but it is a very important path because we are doing this for the future of Territorians for the next 100 years or 200 years. Thus, 5 or 10 years is a very short span when you look at that whole scenario. We would like you to have a think about it and, when we come back next time, provide some input that we can put to a constitutional convention.

Mr HATTON: Thanks, Rick. I hope that we have outlined basically what we are trying to do. I know some people have some ideas that they would like to raise. Please tell us what you think or feel free to ask any questions. It open for anyone to talk about anything on the subject.

Ms WENKE: I thought you might go through it starting from page 1 and let us ask questions as you go along.

Mr HATTON: Okay.

Ms WENKE: Get through it that way.

Mr HATTON: The parliament first?

Ms WENKE: Yes.

Mr HATTON: This is easily explained. If you are looking at the structure of a constitution, you will find what are called mechanical clauses: how do you put the parliament together, how do you put the judicial system together, how do you put the executive or the government system together? Those are 3 items and there are some questions about the parliament on pages 4 and 5. Should the new parliament or the new state have the same powers as other Australian state parliaments have? What are your thoughts?

Ms WENKE: I guess that we could incorporate a few that are better or bend them around. As you say, you have to kick ideas around and talk about them and know what you are talking

about. We have not got written out what a constitution stands for, item by item, so that we can kick it around. When it is itemised, we can look through it at a later date and say that this or that could be done or this and that could be added. Until we do that, nobody knows what they are really talking about.

Mr SETTER: Yes. All that we can do - and you will see it in this book - is to talk in reasonably gentle terms about specific issues. The matter of the actual words that end up in the constitution would be a matter for the constitutional lawyers to go through.

Ms WENKE: Right.

Mr SETTER: None of us will actually know exactly what will go in until after the lawyers have done their work at the end of the consultation process. In here, you will find that we talk about the issues in general terms.

Ms WENKE: But, we have to know what the issues are.

Mr HATTON: Yes, sure.

Mr SETTER: And any others that you might want to be added.

Mr HATTON: Our people went through this book. You only have that book there. I have here 11 typed pages of questions that are in that book. There are some interesting ones. For me to read the questions out to you at the moment would not mean anything to you because you need to read the arguments surrounding the questions. However, there are questions such as whether a new state must have a Governor as the head of state. Should the Governor have to assent to any legislation passed by the new state parliament before it becomes a law? Did you know that, in the states, the Governor has to approve and sign legislation that the parliament has passed before it becomes a law?

Mr KERR: (Inaudible).

Mr HATTON: I beg your pardon?

Mr KERR: The voters don't get a say.

Mr HATTON: Well, they do. Every time that they vote.

Mr SETTER: They get a say with regard to the government that they install.

Mr HATTON: Do you write into the constitution that the Governor must do what the government tells him to do?

Ms WENKE: The government is elected by the people in the first place and therefore it automatically becomes the people's wish. It should be if it is put before the people correctly so that they can use their brains and vote accordingly.

Mr HATTON: That is right. What happens if the parliament has passed a law and sends it to the Governor or the Administrator for approval and he doesn't like it? Should he be able to send it back?

Mr WENKE: I wouldn't think so.

Ms WENKE: He has not been elected by the people.

Mr POWICK: (Inaudible).

Ms DARCY: He was picked by the government.

Mr HATTON: Must he act on the advice of the government?

Ms DARCY: Well, what is the point of having him there?

Mr HATTON: We have this constitutional monarchy and that is why he is there. Under the Australian Constitution, he is the monarch's representative. We cannot break away from that system because it is part of the Australian system.

Ms DARCY: But what is the point of saying that he has to sign each act if he has to sign it?

Mr HATTON: That is right. That is the question that I am asking you.

Mr SETTER: That is a good point. But, what if the government gets off the rails and comes up with some ridiculous policies or legislation and it has to go to the Governor for assent? Perhaps the Governor should have a watchdog role and have the ability to be able to say: 'I do not agree with that because you are doing the wrong thing. Take it back and have another think about it'.

Mr HATTON: Do you think he should have that right?

Ms DARCY: Oh, yes.

Ms RETTER: He does not have to sign it.

Mr HATTON: A person appointed by the Queen should have the right to overturn the elected government?

Ms RETTER: The person who is appointed by the Queen will not be just some riffraff. He is selected by the main people of the country, isn't he? That is put to the Queen and she says yea or nay. The Queen doesn't just publish those and say: 'Okay Jackie, you are Governor of such and such'.

Mr HATTON: Like Sir John Kerr.

Ms RETTER: Yes, but ...

Mr SETTER: Obviously, an eminent person.

Ms RETTER: He will be a very outstanding person. I think that you do have to have some final ...

Mr HATTON: To give an example, Bill Hayden has just become Governor-General. If there were a change of government and the Liberal National Coalition government came into power, should Bill Hayden, as the Governor-General, be able to say, 'I don't like that law', and then send it back?

Ms WENKE: I think it was disgusting that he was made Governor-General to start with.

Mr HATTON: Be that as it may, that is where it is. The question is whether, as a Queen's representative, he should have the power to stop or block the will of the parliament. You can see how you can get into an interesting debate.

Ms WENKE: The person who is in that position should not be a strong political figure. He has to be a non-political figure.

Mr HATTON: What do you think about it?

Mr WENKE: He should have the say, but he cannot say it straight off until he a look at what the rest of the country feels about it. He might not know anything about it or about what is going on.

Ms WENKE: I think Governors should be appointed by the Queen, as they are, with the approval of the Australian people or the people in a particular state.

Mr HATTON: Or on the recommendation of the government.

Ms WENKE: Obviously, they are recommended. Bill Hayden was recommended by Bob Hawke. Perhaps it should be done on a bipartisan or broader basis.

Ms DARCY: Do we have to have a government representative appointed by the Queen?

Mr HATTON: Yes. That is because the Australian Constitution creates a monarchical system of government.

Mr WENKE: What about a period of time that ...

Mr HATTON: Can I explain the difference between those 2 elements? Countries like the United States have what they call an executive government system. They have an elected president, who is the executive government, an elected parliament, which is the legislature, and the judiciary. Those are the 3 arms of government. There is a balance of powers between the president and the Congress and one cannot sack the other. There are rights of veto that create that balance.

We have a different system called representative government where the parliament is responsible to the people and the government - that is, the prime minister and his ministers - are responsible to the parliament. There is also a link to the monarchy and the responsibilities are flowing back to the people in a continuous line, not in a series of separate lines. How do you make

that link between the elected representatives and the monarchy? How much power do you give the monarchy? Henry VIII and King John had a lot of power but, over the years, more and more of that power was whittled away and placed in the hands of the people. However, there is that link between the parliament and the Governor. It is a question of how much power you are going to give to the royal family versus how much power you are going to give to the people and the people's representatives.

We have to confront that in our constitution. We think that we have some ideas on how to do that. One suggestion is that he must agree with it unless, in his opinion, it is unconstitutional and that the government is acting beyond its constitutional power.

Mr KERR: The point is the prime minister is elected by the people. He can be put out in 3 years but you cannot get the Governor out in 3 years. He is there all the time. You must have a head of state or head of the country somewhere. The prime minister only lasts 3 years and you might get somebody else in who has totally different ideas. But, you still have that head of state. It is his job to find out what the country wants.

Mr HATTON: It is going to be an interesting debate, isn't it?

Mr SETTER: It sure is.

Can I just come back to the first question of whether the parliament of a new state should have the same powers as the state parliaments have now. Do you realise that, at the moment, whilst we are a self-governing territory, we do not have control over all the normal state-type functions? We do not have control over Aboriginal land, over uranium mining, over national parks nor over industrial affairs. The Chief Minister has written recently to the Prime Minister to ask for the transfer of those powers. Do you think that, when we become a state in the future, we should have have those powers because the states have them?

Mr WENKE: We would not want to start off with anything less, would we?

Mr HATTON: With respect, Rick, could I say that we can talk about that later. It is not part of this committee's work.

Mr SETTER: No, but the question is asked there.

Ms WENKE: Yes.

Mr SETTER: It the first question on page 5.

Ms RETTER: Just a point of interest. Is the Territory government in control of all other land and all other mining?

Mr HATTON: Yes. All mining and all land is under the responsibility of state governments in Australia.

Mr SETTER: With regard to uranium mining, whilst the state governments have control over it, the federal government retains control over its export. Thus, whilst the state government can

mine as much as it likes, the federal government may not allow its export. Therefore, the federal government still holds a good hand as far uranium mining is concerned. But, in the Territory, we do not even have the right to do what we want. Quite obviously, nobody will develop a mine unless he has an export licence. We still do not have that right.

Mr HATTON: In respect of the constitution, do you understand how we are going to go about doing it? Are you comfortable with that procedure we are going to adopt? I cannot emphasise enough how important it is. It is not good enough for us just to do this job. If you do not become involved and have your say, if you do not ensure that your views and aspirations for the Northern Territory are reflected in this fundamental law, then you are not doing justice to the future. I know that it is easy to say that it is too hard and to walk away. However, that may be the hardest and most tragic decision you could make. In 3 or 4 years time, when people have been working away at this and there has been a gathering of momentum, it may be too late for you to suddenly start taking an interest in it and complaining that nobody spoke to you. Now is the time to become involved - when the ideas are being developed and brought together. Now is the time to come together as a Northern Territory community.

If we can involve people across the board, we can start to resolve some of the differences and conflicts. We can start to set some rules by which we as a community will be able to live and work together in the future. I have no doubts, and I know that Rick too has no doubts, that there will be some monumental fights on the way. But, first of all, let us at least find out the things that we agree on. We must put all those things together and then identify where we have arguments. We can then sit down and talk about those and negotiate solutions that we can all live with. That is how we must set the rules. It is not a job that I can do. It is a job the people have to do. If you become involved, when it is completed you will feel that you own it. The government will not own it. You as individuals and as a community will own it. You will have power coming from that. It will give a consistency, a direction and a basis of growth for the Northern Territory. It will put the foundation stones underneath where we are going. Surely there cannot be anything more important than that. If we care anything about the future of the Northern Territory, the future of our own kids, that is the job that we have to do. It is a unique historical opportunity that probably will not happen again in this country. These things do not come along every couple of years. They occur once in several lifetimes. I think I have said all I need to say.

Ms RETTER: I can add to that, Steve, that we have to get it right the first time because referendums are seldom won and cost big mobs of dollars.

Mr HATTON: It is very hard to change. That is why we have to take the time and the effort to work through it and we cannot think only for ourselves. We have to try to think also from the other person's perspective. If we do that, we might actually find a solution. It is a big responsibility but also a big opportunity. Thank you very much

SESSIONAL COMMITTEE ON CONSTITUTIONAL DEVELOPMENT

PUBLIC HEARING

TENNANT CREEK — Wednesday 12 July 1995

PRESENT:—

Committee:

Mr S HATTON - Chairman
Mr P. MITCHELL
Mrs M. HICKEY

Officers assisting the committee:

Mr R Gray (Executive Officer)

Appearing before the Committee:

Mr Kym Cook
Mr Barry Sharples
Ms Joan Small
Ms Sandra Rew
Mr Peter Wyatt
Ms Joanne Lee

NOTE: This is an edited transcript.

ISSUED: 27 July 1995

Mr HATTON: I now call to order this meeting of the Sessional Committee on Constitutional Development. I take this opportunity to introduce members of the committee.

I am Steve Hatton and I am the chairman of the committee. Maggie Hickey, the local member for this area, is the deputy chairman. Phil Mitchell, the member for Millner, is a member of the committee. The committee has 6 members altogether, 3 from the CLP and 3 from the ALP. The other members are unable to be present at this particular meeting.

The committee has been operating in various forms continuously since early 1986. Its job has been essentially to prepare the ground for the Northern Territory to eventually become the seventh state of Australia. Its terms of reference are to develop recommendations for the parliament on the development of a Northern Territory constitution and the steps that are necessary for the Northern Territory to become a state.

Over a number of years, we have spent much of our time developing and researching those questions through a series of discussion papers and information papers which we have circulated widely throughout the community. These explore issues associated with statehood and the writing of a constitution.

The procedure for the Northern Territory to become a state is now fairly well settled. Firstly, the Northern Territory needs to develop and have in place its own constitution. Our committee has set as a goal the development of that constitution through a 3-stage process. The first stage is the work of this committee. Our job will be to prepare what will be known as a draft constitution, which we will table in the parliament. It will obviously be debated in the parliament. However, we will be recommending that the draft constitution, all our research, all the submissions that have been made to us, and all the discussion and information papers we have produced, be referred to as what is known as a constitutional convention.

The constitutional convention is really like a drafting committee of representatives of the people of the Northern Territory. At this stage, it will start to move out of the hands of the politicians and into the hands of the people. The convention will have a statutory base. Our intention is that legislation to create that constitutional convention will be introduced into parliament next year.

Earlier this year, we tabled a report to the parliament on our recommendations for the formation of that constitutional convention. That follows a couple of discussion papers that we have released publicly. We actually received a number of submissions on the question, although not as many as we would have liked.

I think some copies of our recommendations are available here for people to read and peruse. Basically, we recommend that the convention should comprise a mixture of elected and nominated people with no more than 25% being nominated. We are also recommending that 50 members be elected from 10 multiple member electorates, each returning 5 members. In other words, the Northern Territory would be divided into 10 electorates of approximately equal numbers based on commonality of interest groupings, each electing 5 members. The voting system resembles that used for the Senate and means that a candidate with 16.6% of the vote would be elected to the

convention. That would give us a base of 50 people. The recommendation is designed to ensure that the convention has breadth of representation from across the Territory.

We are suggesting that the other 16-odd positions be occupied by people nominated by appropriate interest groups or minority interest groups whose interests may not otherwise be represented. We are suggesting that such groups might include employers, trade unions, local government, Aboriginal groups, perhaps the youth sector and perhaps the aged sector. They are suggestions. We are, in fact, looking for submissions during the course of this year to firm up which sorts of groupings within society should have nominated representatives. It may well be that submissions will overwhelmingly indicate that everybody should be elected. This is only our recommendation at this stage and it needs to be firmed up this year.

That convention will take all of our work. They will go through it. Their aim will be to produce a proposed constitution. This would then go to a vote, or a series of votes, in a referendum of the Northern Territory people. When the Northern Territory people have voted in favour of a constitution, we would then say: 'This is what the Northern Territory people want as the way they want their government, their democracy and their society to be structured'. It would determine the shape of government, the parliament, and a range of issues including the limitations Territorians want to place on the role of their government and those individual or representative group rights which people believe should be constitutionally protected from government. A constitution is the people's law that not only creates the government but sets the limits that the people want to place on government.

It is not essential that we have a constitution. However, the absence of a constitution means that there are no limits on the style or authority of government. Your constitution is the means by which you control government. It is the ultimate control by the people over government. It is protected to that extent.

We would recommend that it can only be changed if the people by majority agree with that change. However, you can write the rules on how you think any constitution should be amended. That is part of writing the document. It is the foundation document of your society. It is very important. I know that it seems a bit scary and that you might think: 'Oh, this is a thing for lawyers, politicians and academics to chew through.' The reality however, is that it is really important for the ordinary citizen to feel that it is a document they can claim ownership of as something they are comfortable with and happy with.

We can put up ideas and you can say that you do or do not like them or that we should be doing something else. It does not have to be written in fancy legalistic language. It does not even have to be written. You are more than welcome just to stand and talk about it to our committee. Today's proceedings are actually being recorded.

This is not the first time we have held public meetings, including public meetings in Tennant Creek. We have taken hundreds of pages of submissions from well over 100 communities throughout the Northern Territory. Much of this has actually been recorded in Aboriginal languages and subsequently translated into English. That is the extent to which we are seeking to get the views of communities.

Please do not feel constrained by the thought that maybe you do not have the qualifications to speak up. It is just the opposite. Sometimes the people with qualifications come up the craziest theoretical ideas that the people would not wear on badge day. In developing your constitution, we want to find out what the people really want.

We are working to a timetable. The timetable is basically targeted to achieve statehood during 2001, the year of the centenary of federation. We believe that, in order to achieve that target, we need to have a constitution together and successfully voted on by the people by 1998. That will give us a couple of years in which to negotiate with the federal government of the day to get this constitution introduced as a law of the federal parliament, to change our self-government act into a Northern Territory constitution act. It is similar to the way in which the Australian Constitution became a law of the parliament of Westminster in London. Secondly, that period will be used to negotiate the transfer of powers. These include issues you often hear about such as national parks and uranium mining together with other powers, such as those relating to industrial relations, for which states have responsibility where the Northern Territory parliament currently has none. A range of processes and procedures need to be negotiated. There is also the issue of representation.

Those negotiations will occur between the Northern Territory and the federal parliament because the Australian Constitution says that the federal parliament may accept such new states under such terms and conditions as the federal parliament agrees. We will need to negotiate those issues through with them and we need time to do it properly. We have done a lot of research on the issues but that is the formal negotiation process.

If we want to get that completed by 1998, we believe that we need to have the constitutional convention of Territorians elected and in operation by the middle of next year, 1996. To achieve that goal, our committee needs to have completed drafting work on our stages of process by the end of this year. That will allow it to go through parliament in the first 6 months of next year, which will put in place the law to create the convention, and implement elections for the convention so that it can be operating by the middle of next year.

We are on a serious timetable of work now. We are proceeding towards our objective and we are trying to say to people as we go along: 'Look at what we are doing and just let us know if you think we are heading in the right direction or not. If you think we are not, please let us know while we are still in the drafting stage'. That is what these consultations are about.

To assist in the process, we have produced what is known as an 'exposure draft', which was in the last sittings of parliament during May. It is like the draft of a draft. This is how far we have got - the first 7 parts of the constitution. It covers all the major parts of the constitution. It creates the government and establishes the executive - the ministry process. It sets up the judiciary, the court process and the position of governor. It works out who is allowed to do what amongst all of those different people and proposes checks and balances in the system.

It also deals with some very touchy issues in the Territory. We have worked very hard to find a fair balance on some issues that are important for the Territory. These are sensitive issues which must be addressed. Aboriginal rights are an example. We believe that, upon statehood, the Land Right Act should become a law of the Northern Territory. How do we achieve that? How do we convince the federal parliament? How do we convince Aboriginal people that they can trust the

Northern Territory government not to repeal the act the day after statehood is achieved. How do we give them some assurance?

We have dealt with issues like constitutional recognition of Aboriginal customary law and Aboriginal sacred sites. The preamble to this constitution would recognise the prior existence and occupation of Aboriginal societies within the Northern Territory, prior to white settlement. This would be the first constitution in the history of Australia to make such recognition. I must admit that it is much easier to do this since the Mabo judgment. It will formally recognise that Aboriginal people did live here before and did have a society that existed beforehand. That is stating a reality. It addresses the history of the Northern Territory from that time in what we believe is a positive, practical way. That is what we call the preamble to the constitution.

The second thing we have introduced is the concept of organic law, which is new in Australia. Organic laws exist elsewhere in the world, for example in Papua New Guinea. An organic law is an act of parliament that is stronger than a normal act. It requires a special majority of parliament to become law, and a special majority to be amended. There is debate about the extent of that special majority but the suggestion is that it be somewhere between two-thirds and three-quarters of the elected members of parliament. Basically, bipartisan support would be required for an amendment to that law. It is not as strong as law which is entrenched in a constitution but it is more than an ordinary act of parliament which can be amended by any government of the day.

That concept has been introduced in order to address issues such as Aboriginal land rights. There may be some things that might be considered too important to allow them to be fiddled with or changed around by any government of the day. It gives more entrenchment of a law. It is a new concept and something we are suggesting that people might like to think about it. We think that it has merit.

Another issue that is not covered by the draft, but which has been the subject of a discussion paper, is question of constitutional recognition of local government. The discussion paper contains a series of suggestions on how that might be achieved. The committee believes that there should be entrenchment of local government within a Northern Territory constitution. We are seeking views on the level of entrenchment. Should people have a right to local government, so that they can choose to have it or not, or should you be required to have local government? Would you give the Territory parliament the right, under certain circumstances, to dismiss a local government, appoint an administrator and perhaps call another election? Such issues need to be thought through. We released the discussion paper in order to draw out the views of the community. I am sure that the Local Government Association in particular will give us some views about that issue, but it is also a question for local councils and people in general.

There are some areas where there are clear differences of opinion within our committee or where we believe that people ought to be given some distinct choices to consider. In such cases, we have made the choices clear. For example, there are some choices to be made in terms of how the parliament is created. The constitution might say: 'You must have single-member electorates of about equal size'. Or you might say, within the constitution, that you can have either single-member electorates or multiple member electorates of about equal size. You could also say that you must

have multiple member electorates, which is different to the situation we have now. You can put that into your constitution.

Now, if you chose the second option, a government of the day would have the power to vary the electoral system. At some stage, a government might say: 'Let us change our system'. We might have a series of multiple-member electorates like Tasmania, with a Hare-Clarke voting system or something like it. If you do not want a government to be able to make that choice, you would ensure that the constitution did not allow it. If you want to leave that option open for the future, so that future generations do not have to amend the constitution to change their voting system, make sure that the constitution allows the government to choose.

We have provided some ideas for you to think about. Most of us have a particular view on what we do or do not believe in. We suggest that people might think about how much they want to tie up in a constitution and what they are prepared to leave to be done by way of legislation. Those are the sorts of decisions we need to make when we are drafting our constitution.

I have talked at some length now. Maggie will be with us in a minute. We knew she had a particular call coming through. Phil, do you want to add anything?

Mr MITCHELL: No, I think you have covered it all.

Mr HATTON: Are there any particular questions or thoughts that people would like to raise?

Mr COOK: What impact would a referendum on the republic have?

Mr HATTON: We have actually dealt with that in here. We brought out a discussion paper on the effects of a republic. Each clause in the exposure draft contains a note outlining any variations which would be required if Australia became a republic.

Mr COOK: What I mean is this. At the moment, only the states get to vote on the question of Australia becoming a republic.

Mr HATTON: That is correct.

Mr COOK: We are creating a state but we will not have a vote.

Mr HATTON: That is correct. At the moment, as a Territory, we can vote in constitutional referendums. However, we are only counted in the total vote for the Australian population.

Mr COOK: But not as a state.

Mr HATTON: Not as a state. As you know, to amend the Australian constitution you need a total majority across Australia plus a majority in 4 of the states.

Mr COOK: Yes.

Mr HATTON: If we became the seventh state, it would be 4 out of 7. We would be 1 of the 7 so we would have more of a say on that question.

Ms SMALL: Steve, where does the question of representation stand at the moment? Does the draft constitution say anything about it?

Mr HATTON: Not in the constitution. You need to understand that the constitution is a contract between the Territory people and the Territory parliament. Representation in the federal parliament comes about through a contract between the Territory parliament and the federal parliament. They are separate questions.

This is the way you work out how you want your parliament to work in the Northern Territory, together with your courts, your governor and your ministry. If we get this done first, we can say: 'At the end of statehood, what is it going to be like?' We will see it. Okay?

Ms SMALL: You mentioned representation in that ...

Mr HATTON: It is part of the negotiations in the last stage of establishing the conditions of becoming a state. The Australian Constitution does not give us any rights. There is a view that we should have the same list of powers as other states although we might want to enter agency arrangements on things like industrial relations. I do not think Territorians want to have a separate Industrial Relations Commission as well as the federal commission. The system seems to work better in the Northern Territory with a combined commission. These are negotiating issues.

In terms of representation, the Australian Constitution guarantees the original states a minimum of 5 seats in the House of Representatives and equal representation in the Senate. There is no such guarantee or right for any new state. It is a matter for negotiation.

It is my view and I believe the view of most members, that we should have equal representation in the Senate as a matter of equity and justice. However, we may need to consider whether we commence with equal representation or move to equal representation in stages. We may need to negotiate to achieve the objective, particularly because another part of the Australian Constitution says basically that you need to have 2 House of Representatives seats for every Senator. There are twice as many seats in the House of Representatives as there are Senators.

In other words, if an additional 10 Senate positions were created for the Northern Territory on becoming a state, an extra 20 seats would be required throughout Australia for the House of Representative. This would massively disturb every electorate in the country. Such disturbance could be a major obstacle to achieving the key objective, which is the gaining of our constitutional rights. We need to think the process through. How do we achieve the objective of Senate representation without causing massive disruption to Australia?

Ms SMALL: Thank you.

Mr SHARP: What will be the impact of Australia becoming a republic?

Mr HATTON: It would not really have much of an impact at all. I do not think you would even change the name of the head of state. You would call them the governor. I mean, in the

United States they call the head of the state the governor. In fact, in an Australian republic, it would still be possible to call the head of state the Governor-General. They do not have to be called president. I do not know why Paul Keating has not thought of that. There is no law that says the head of state has to be called a president. He is just enamoured with the thought, I think.

In respect of other issues, there are bits and pieces about the Queen's representative and prerogatives. But they are small changes.

Mr SHARP: If we had a governor, we would no longer have the Administrator.

Mr HATTON: That is right. Under statehood, whether it is a republic or the existing monarchical system, that would be the same. You see, our Administrator is only the representative of the Governor-General. He is not the representative of the Queen here. Because we are a Territory, the Administrator is required to refer every law we pass to the Governor-General, who has a 6-month time frame within which he can disallow any such law. That is because we are only a Territory. It is a reserve power that he has kept and he takes advice from the federal Cabinet through executive council.

Mr SHARP: The other issue which sometimes crosses people's minds relates to the Premiers' Conference, where the money gets dished out per head of population. Now, would that ...

Mr HATTON: No, it does not happen like that.

Mr SHARP: As I say, that is ...

Mr HATTON: It is one of the great fallacies spread by people who know little about Commonwealth-State financial arrangements and who want to create mischief in relation to the issue of statehood. I have to tell you that they include a lot of southerners.

The truth is that we are funded now on exactly the same formula as the states are funded. Since 1988, we are not only funded under the same financial formula through the Commonwealth-State Grants Commission but we also receive our funds from the same bucket of money, the Commonwealth-state tax sharing pool. The old memorandum of understanding of financial arrangements ceased in 1988.

The nature of that formula is the reason we receive higher per capita funding. The formula is basically designed to ensure that every state has sufficient financial resources to deliver the same reasonable standard of services and facilities, assuming that it is charging an equivalent level of taxes. Victoria, for example, is a well developed state with high population and infrastructure established over 200 years. Such a state has economies of scale. Apart from New South Wales and Victoria, most states receive differential payments because of what are called diseconomies of small scale and other factors such as remoteness.

For example, it costs more to educate an Aboriginal child in a place like Lake Nash than it costs to educate a child in Parramatta. You still have to build the school. You have to provide a house for the teacher, fly the teacher out there, provide extra conditions of service, power and a

range of other services. Education costs \$9000 or \$10 000 per child out there compared with \$600 to \$800 in the city. That is why we get the extra money.

It is the same with remote area health services and the large distances involved in road construction. Those cost disadvantages are the reason we get additional funds in order to provide an equivalent standard of service. There is nothing special about our funding. It is provided as part of a 1926 Commonwealth-state financial agreement that said: 'As one nation, we should take a national view on the delivery of services to our citizens'. Remember that much of the money we receive is taxes which the Commonwealth collects on our behalf. It is a consequence of that agreement, the income tax agreement of 1942, a wartime measure, and a number of other agreements under which the Commonwealth collects taxes on behalf of the states.

The Commonwealth is not giving us something that belongs to them. They are giving us something that belongs to us. It is being shared out in a manner which enables all citizens of Australia to get a fair go. That is all that is happening. I do not ever apologise for it. I can assure you that there will be no extra money for us and no less money. If we get a development boom, or if we open up more mines because of our ability to accelerate economic development through greater self-determination, our increased revenue-raising capacity would be counterbalanced by less funding from the Commonwealth. We will get a fair go with funding. The net effect will be the same. There will be no financial boom and there is no need for any financial fears.

This is about your rights as an Australian. It is simple as that. You may not know it but, as an Australian who happens to live in the Northern Territory, you happen to have no constitutional protection under the Australian Constitution, which refers to 'the citizens of the states'. We are not citizens of a state. We are fighting to get back the rights that were taken from us in 1911.

That means that you, or your government in the Northern Territory, will be able to rely on the Australian Constitution to defend your rights against wrongful acts of the Commonwealth. I can give you a very simple practical example. Section 52 of the Australian Constitution says that the Commonwealth government cannot acquire property from a person or a state except under just terms. However, the Commonwealth can and does acquire property from the Northern Territory without paying for it.

The Land Rights Act specifically states that there will be no compensation paid to the Northern Territory government for any Crown land handed over under the act. That currently represents about 500 000 km². It will probably be about 660 000 km² at the conclusion of the land claim process -- about 50% of the land mass of the Northern Territory. Not one cent of compensation will be paid to the government of the Northern Territory.

The Commonwealth could not do that in any state. That, of course, is why the Land Rights Act only applies in the Northern Territory. All the other land rights acts are state acts. Similarly, the Commonwealth could not pass a land rights act just for the Northern Territory if we were a state. They could pass a land rights act but it would have to be the same act for the whole of Australia. They can do it to us because we are a territory. They have total authority, total powers, in respect of a territory of the Commonwealth. That is what we are. I am not arguing for or against land

rights. I am simply saying that there are differences between a territory and a state. We live with practical examples on a day-by-day basis.

Ms SMALL: That is what you were saying when you said that the Northern Territory Land Rights Act could become an act of the state rather than the federal government.

Mr HATTON: Yes.

Ms SMALL: It would be the same as all the other states?

Mr HATTON: Yes, that is right. I am putting it on that basis. No reasonable person thinks that we should reverse history. However, the advantage of making it a Northern Territory law is that we will know quite clearly that every other law of the Northern Territory will apply on Aboriginal land as on all other land. That is an unclear point at the moment.

Ms REW: Is it your intention to protect this by making it an organic law?

Mr HATTON: Organic law would give protection to Aboriginal people. In fact, this document proposes some particular protections in respect of certain elements, some core elements of land rights, which would be constitutionally entrenched. You can read those. I can dig them out and address them if you wish.

We are also suggesting that the constitution should contain a mechanism which would entitle the government of the Northern Territory to compulsorily acquire something less than a freehold title - something like a leasehold title - for public purposes. Such purposes might include the building of a school or a power station. There could also be a provision or mechanism whereby Aboriginal people themselves could decide to sell their freehold title. Such a mechanism would provide for judicial review to ensure that people were not being conned, so that any such decision would be in the interests of those people. Those issues are addressed in the document. Issues of compulsory acquisition and the rights of land owners to deal with their land should be addressed. I am sure that Aboriginal people and Aboriginal organisations will address them. Nothing in the document is a compulsion; it is a right.

Mr WYATT: That would address the fact that Aboriginal people who own land cannot use it for collateral for business purposes.

Mr HATTON: That is correct. However, even with the existing form of inalienable title, a mechanism can be used and has been used in some parts of the world, which enables a leasehold system to be developed over the top of that freehold title. This allows people to voluntarily agree to lease a piece of land for a term which is long enough to be of commercial value. The lease carries a commercial value. We have been researching that mechanism through the Lands Department. As Attorney-General, I will be looking at a land titling system.

Few people realise that in 1066 William the Conqueror granted all of London to about 6 of his knights or barons by way of freehold title. The freehold title is still there. It has not held back the development of London to my knowledge.

The mechanisms exist. There is a legislative inhibition in the Land Rights Act, under which a lease to a non-Aboriginal for more than about 7 years requires the approval of the federal Minister for Aboriginal Affairs. Even though the Aboriginal people, the land trust and the land council all think it is a good idea, they still have to ask Robert Tickner. We would argue that that is just a touch paternalistic. I would not think that the land councils are a soft touch. It has not been our experience over the last 18 years.

Ms SMALL: Further to that, you have described the benefits of statehood fairly well. People have asked me some questions about this particular forum today, saying: ‘Why are we wanting statehood?’ I just wondered if there is a simple way of explaining the benefits to people. I had thought that it would be a financial benefit in terms of premiers’ conferences but obviously it is not.

Mr HATTON: No.

Ms SMALL: But some of these other things are probably a bit hard to explain in simple words.

Mr HATTON: Equality. Equality, the simple word is equality. Constitutional equality. Why should we be second-class Australians?

Ms SMALL: I guess people want to know how it is going to effect them personally.

Mr HATTON: It probably will not, except in terms of how you structure your government. For the first time in our history, we will have a say over that. You can put it together the way you want it, not the way some bureaucrat or politician in Canberra wants it. It is the way you want it.

Mr MITCHELL: What you are saying is that we need to get out a simple and clear message and at the moment it is not very simple and clear.

Mr HATTON: I think it is as simple as that, Joan. It is basically about equality. We have almost the perfect Clayton’s state. It is improbable but certainly not impossible that through the repeal of an act of parliament, we could cease to have any government in the Northern Territory. By amending the Federal Electoral Act, they can remove our rights to senate representation. We have no constitutional rights to those things. We have gained them by hard struggle over some 70 or 80 years but it is only a gift. It is not a right. It will only become a right, an untouchable right, when we become a state.

Ms SMALL: You are really saying that we only exist by the benevolence of the federal government.

Mr HATTON: Yes, absolutely.

Mr MITCHELL: A federal act of parliament.

Mr HATTON: You see, the states exist because the constitution protects them. When the federal government goes beyond its authority, a state government can challenge it in the High Court.

We cannot do that. We have no rights to challenge the federal government constitutionally because it has unlimited, unfettered power over us. It has the power to remove the right of our federal representative to speak or vote in parliament, as it did to our federal member until 1967.

Mr WYATT: He only voted on Territory issues, didn't he?

Mr HATTON: He was only allowed to speak on Territory ordinances and he was not allowed to vote on anything. We did not have any Senate representation until 1975. That did not come about because we have a right to it. It happened because a government of the day thought it would do us a favour. Although I do not believe that it is likely to happen, an amendment to a federal act of parliament could wipe out the entire Northern Territory education system or health system. It could delete the powers, with the whole lot reverting to the federal parliament. It would not even be debated in parliament. There would be an amendment to a regulation. It would go through a subordinate legislation committee. You have no protection in basic things like that until you are a state. You have the protection of democratic force but you have no constitutional protection.

Mr WYATT: Perhaps the federal government should have one of these organic acts to protect our rights in the meantime.

Mr HATTON: I think we are coming to the crunch. Let us just go for it. That is really what it comes down to. They can amend our Self-Government Act whenever they feel like it. They could decide to do what they did to Canberra, enforcing a single electorate of 17 members. They could do that to the Northern Territory. They could write it into the Self-Government Act and we could not do a thing about it. You know how politics works. They create a problem and then offer the solution, which is what they originally wanted to do. They could do that as a mechanism to achieve whatever they wanted. We have no defence. I think what we have achieved as Territorians in the last 20 years has been quite extraordinary. All of us, especially those who have been here over that period, have seen the change for the better. Some would pine for the old days but at least you have someone to bitch to now. In those days, you did not even have that.

Mr COOK: A question ordinary people ask is: 'How much extra will it cost?'

Mr HATTON: Nothing. We already have the Administrator, the judicial system, the courts, the parliament, the elected representatives, the public service and the government administration. The government infrastructure is all in place.

Mr COOK: You said before that some powers such as industrial relations were still vested federally. Are there any others?

Mr HATTON: The Land Rights Act is one. That has not been a cheap exercise to the Northern Territory budget over the years.

Ms HICKEY: Self-imposed.

Mr HATTON: Not always, I have to tell you. I will debate that point with you any time.

Ms HICKEY: Not in this forum.

Mr HATTON: Not in this forum. There is the Land Rights Act. I believe that changes to industrial relations would be relatively minimal. In 1987, a consultancy was carried out by Sir John Moore, the former president of the Industrial Relations Commission. He recommended that we take the industrial relations power whilst contracting with the federal government that the existing Northern Territory panel also carry out the industrial relations function of the new state. It would operate in exactly the same way it operates now with one difference. There would be a guarantee of a Northern Territory panel and Territorians would have some say about which deputy president was the head of that panel. We would pay an agency fee which might be \$0.5m or \$1m a year. That is within the capacity of a \$2500m budget.

Mr COOK: And all the other administration is already in place, is it?

Mr HATTON: Yes. I cannot think of anything which is not. If we took over the management of Uluru and Kakadu National Parks, there would be some additional costs. However, our current assessment by the Grants Commission assumes that we are not paying for the costs of those parks. There would be some upward adjustment up in funding through the Grants Commission for the reasonable costs of managing those parks. There would need to be a slight offset there. Whilst I cannot give you definitive figures, the costs are minimal in those sorts of areas.

The other issue is transfer of ownership, what is called the 'radical title' to the Uluru and Kakadu parks. That means you own everything under the ground - all the minerals. Few people realise that, when the Commonwealth government took over those 4 cattle stations in the 12 months after self-government in 1978-79, it acquired the radical title. That means it acquired all the mineral rights, which normally belong to states. If mining had proceeded at Coronation Hill, the Commonwealth would have received the royalties. Wasn't it crazy? We were fighting to get Coronation Hill going and the federal government would have been the financial beneficiary.

Uranium is only part of the issue in respect of Kakadu. It certainly is a big issue. The fact is that the miners are underpaying royalties fearfully because they signed an ad valorem royalty agreement. We have a profit-based royalty agreement. They are paying about \$5m a year in royalties in a year when Ranger made a recorded after-tax profit of \$100m. That situation would have required \$17.5m in royalties to the Northern Territory government. That was just one mine. That federal agreement has cost taxpayers hundreds of millions of dollars in revenue.

Those are the pluses and minuses in that exercise, Kym. However, I am quite confident in my belief that there are no financial risks. You can talk about \$0.5m here and there, which sounds like a lot of money to Joe Citizen. In a budget of \$2500m, it is like somebody who is earning \$250 a week having to spend an extra \$1 or 50¢ per week. That is the perspective. We are doing it and balancing our books with more dollars than that every year.

Ms SMALL: Steve, when do the other people in Australia become involved in this process?

Mr HATTON: They do not need to become involved. There are 2 ways of creating a new state. The hard way is to hold a national referendum to amend the Australian Constitution under section 128. That requires a majority in a majority of states. I do not want to confuse you with legal technicalities but there is at least one eminent legal view that says that you would need a

majority in every state, because you would be changing the relative Senate representation of every state. That is the hard way. In order to hold the referendum, a law has to pass through both houses of the federal parliament. You have to negotiate with the federal parliament in order to reach a position in which all of the people of Australia vote on the issue, and you have to run the associated risks.

Section 121 of the Constitution says that we can be accepted under such terms and conditions as the parliament agrees. We can actually do it by negotiating with the parliament and the government of the day and getting them to agree to pass an act of parliament. We are recommending that approach, rather than the approach which requires a national referendum. There is no way of bypassing the parliament to ask the people of Australia directly. You have got to go through the parliament anyway. It does not need to be put to a referendum.

Ms HICKEY: Joan, there is a body of opinion in the Northern Territory which favours gaining the agreement of people in other states, because it will change the Senate representation. Clearly, we need to have the support of the major states because of the influence they wield in the federal parliament.

Mr HATTON: There is no doubt that we will need to negotiate with both parties in every state around Australia and to market the just case for statehood for the Northern Territory, if for no other reason than to put some heat on a lot of federal politicians. It is fair to describe it as a marketing exercise rather than an effort to get a vote from the people in the area.

Ms SMALL: When is that process going to ...

Mr HATTON: If 5 of the 6 state governments were thumping the barrel against us becoming a state, our task would become extraordinarily difficult. Mind you, I think the political and democratic force of a very large majority vote in adopting our own constitution would create an almost irresistible momentum towards the objective of statehood.

Interestingly, public opinion polls conducted earlier this year in the Northern Territory and nationally showed surprisingly similar results. More than 80% of people were in favour of the Northern Territory becoming a state on or before the centenary. In fact, a similar majority suggested that the issue of Northern Territory statehood should be addressed before the issue of a republic. There is a clear sense of fair play within the Australian community. I am sure that we would not get that sympathy if there was a mean-minded argument that Northern Territory statehood would cost an extra \$100 out of people's weekly pay packets. They would not regard that as fair play. However, the fact is that it will not affect their lives at all.

Ms SMALL: Is that where publicity about the whole thing will be incorporated?

Mr HATTON: The marketing of statehood is an awareness program within the Territory. It is an awareness program and an acceptance program throughout the nation and within the parliaments of Australia. We have to put the idea into their minds and get them comfortable with the notion that it is fair and reasonable and will not make their lives harder. I believe that is eminently achievable.

That is why we need that time and that is why we are working towards 2001 is an achievable objective. That is the magic year. It is more achievable because we know more about how to go about it now. We are much further advanced than we were when we made a rush for 1998 and the Bicentenary. We had not done our homework and none of us really knew the implications. The groundwork was not done and the people had not thought about it and come to grips with it sufficiently. Certainly, people had not thought about it nationally. It is seeping into the consciousness of Australia now.

Ms SMALL: Are we are going to get people like John Williamson singing: ‘We must have a state of our own’?

Mr HATTON: That is the sort of thing you need to rev up, isn’t it? We could give Peter Garrett another cause to work towards.

Certainly, there is nothing wrong with people power. If you believe in statehood and are able to get together a group of people who are prepared to become involved, we can certainly provide you with support and information to assist in promoting discussion within your community. It is all about being informed and getting to the forefront of people’s minds.

Ms HICKEY: The constitutional convention is a key part of that too. The better informed and more involved people are before they vote on membership of the convention, the greater the say they will have in what happens. This exposure draft contains the ideas of 6 politicians and some constitutional lawyers, backed by a lot of research and negotiations throughout the Territory. However, the people of the Territory have to own it. If they are going to own it, they need to know enough about the issues to frame what will become our constitution. It is quite interesting to see how the Australian Constitution was framed. When you read about that part of our history and the people who made it, you can see how we can also be part of history by participating in the framing of our constitution.

Mr HATTON: The people involved in this will be regarded as the constitutional fathers and mothers of the Northern Territory. We talk about Sir Henry Parkes and those people in terms of the Australian Constitution. The role is the same, and it will earn a place in history 100 years from now.

Mr COOK: We will not be around to enjoy it.

Mr HATTON: Yes, you will. Your grandchildren will. I have said this at a number of forums over the years. This generation in this part of the world has a unique opportunity to do something. It is actually a unique responsibility too.

The question is now before us. Certainly, as Territorians we can say: ‘We do not want to know about it. It is too hard’. We can put it aside. That will not stop us being judged. The question is: will future generations judge us well or badly on what we do and how we do it? They are the people who will have to live with the results. Even if we do nothing, they will have to live with the results and we will be judged on that. I have said to many groups: ‘Are we going to be judged as people with foresight who were prepared to take up a challenge? Or are we going to be

judged as a group of gutless squibs who dodged it?' We are not going to avoid the judgment; it is only a question of how we will be judged.

Ms SMALL: I seem to be doing a lot of talking.

Mr HATTON: Go for it, Joan. It is really pleasing to be asked questions.

Ms SMALL: One of the difficulties seems to be that ordinary people think it is all too hard because they really do not know anything about the constitution. I was just wondering if something could be produced for the show.

Mr HATTON: We have a display at the show. There is a video and some print materials for handing out. Over 500 people visited the display at the Alice Springs Show last week. These are ordinary people, to use that terrible phrase. They just came and talked to the people at the back of the room here, who are here going around the show circuit with us. They discussed the issues, took away some literature and watched the video. People are just starting to switch on to some bits and pieces about it. Would that be fair comment?

Inaudible discussion amongst Committee staff and witnesses.

Mr HATTON: There will be a display throughout the Tennant Creek Show. We will be dragging in people as they come past and giving them information. They can take away copies of the exposure draft and the other literature. We still have copies of the plain English version of 'What is a Constitution?'. This is all to help people start thinking about it.

It is very important to get people talking about it - people in the tourist industry, the Chamber of Commerce people, the barra people, members of Lions and Rotary clubs. I am sure that members of our committee would be more than happy to speak to any local groups who want to find out more about the issues. If they ask for somebody to come and talk to them, we are more than happy to do it. We want to communicate with people and we are looking for channels to do that. This is part of finding ways of opening up channels. The shows are there. As we move into the next round of our marketing strategy, which we have yet to finalise, we will be running advertisements. We now have a marketing budget and we will be using that to disseminate information to the public as much as possible.

Mr MITCHELL: It has taken 10 years to get this stage so hopefully there will be something.

Ms SMALL: Yes, I know.

Mr HATTON: But we are down to the crunch time now, Joan. We actually have some hard issues to deal with.

Ms SMALL: Yes, I can see that. We have come to the crunch.

I have not seen the video yet but there are some interesting issues in terms of public relations. One is the history of the Territory, especially how we have been absorbed by one state

and then given back to the Commonwealth with only partial representation. I have seen that portrayed fairly effectively in cartoon form.

Mr HATTON: Where the different cars are going along the side. That is not in the video.

Ms SMALL: I have not seen that one but it was something like that. It showed how the Territory has been bounced from one place to the other over the years.

Mr HATTON: It is interesting. If you read the preamble to this exposure draft on the constitution, it is an extraordinary history. This goes back to before 1788 because, as I indicated earlier, the opening paragraph recognises that Aboriginal societies existed here in those times. Events then proceeded in a number of stages. We became part of the colony of New South Wales and then we became part of the colony of Northern Australia. Next we became part of the province of South Australia and so on. All the steps are spelt out in the preamble and it is an interesting history lesson about the Northern Territory. It states where we have come from and why, as a people, we now want to take this final step to full equality as part of the family of states of Australia.

Ms SMALL: I was suggesting that the message could be got across really effectively in cartoon form. For example, a person who is sitting in parliament but is not allowed to speak, wearing a gag.

Mr HATTON: Sitting in a cupboard with a gag on. Yes.

Mr MITCHELL: We should talk to Wicking about it.

Mr HICKEY: I think the idea of exciting some interest in this is one thing. However, there is no doubt that you have to do the hard work at some stage because there is a lot to absorb. I guess people can take it in bite-sized pieces.

Mr HATTON: There is no reason we cannot do it in bits. One is the issue of promoting statehood. We are trying to rev up that cause by saying that we have to become a state and we have to have equality. We are taking the line that we have to get those things, and the cartoons would be part of that. However, the exposure draft takes us to a more serious stage. We are actually looking for serious comment. We are asking people: 'Do you think these words are right? Are these concepts right?' We need to get those comments this year.

We are still continuing to draft additional parts of this. We have brought this material out so that it will be available for the show circuit. It covers the first 7 parts. We are addressing issues such as whether there should be a Bill of Rights and, if so, whether it should be part of the constitution, an organic law or an act of parliament. There is a discussion paper on that question.

Some other issues have been raised in submissions. For example, should there be provision for citizen-initiated referenda? For example, some people get very frustrated that you have to get the federal politicians to agree before you can find out whether the people want to amend their constitution. It may be that a provision could be created under which the parliament would be required to conduct a referendum on a proposed amendment to the constitution, if a certain percentage of the voter population signed a petition requesting that. It is ownership by the people of

their document, their law. Citizen-initiated referenda could be used to compel the parliament to do things such as amending the constitution or making a particular law, as has happened in some parts of the United States. The document goes a step further by talking about citizen recall. When people believe that parliament has gone right over the top, the parliament can actually be required to face the people at an election if sufficient signatures are gathered in a petition.

Mr COOK: That sounds good to me. I like that one.

Mr HATTON: Well, it is in one of the discussion papers. It is your constitution. You set the rules. They are issues that need to be considered and debated. They are not the sorts of things that politicians are really keen to see written in. They might be exactly the sort of things that non-politicians want to see in there. We have been honest enough to take the submissions, prepare the discussion papers and put them out to the people. They would also go to the constitutional convention.

Ms REW: What happens when someone makes a submission? For example, if it contains a totally different idea that has not been covered in previous submissions, what is the process?

Mr HATTON: When it comes in, it is received by our committee. Every submission is recorded on computer by subject. Every submission on every point is logged into our computer program. The exposure draft contains references to discussion and information papers and those papers contain references to submissions. So they are all keyed in. All of that work comes back to us through the discussion papers. The discussion papers are finding their way into here and all that information, including all of the submissions, will go to the constitutional convention.

Even if we have not picked up on an idea that people have given to us, we will not be censoring what goes forward to the constitutional convention. We have worked very hard to develop an accessible, identifiable program that will be available throughout the process up to the time of the referendum. It will be part of the history of the Northern Territory.

Ms SMALL: How long is the period for submissions?

Mr HATTON: I think we would certainly need to have them before the end of this year. If we work really hard over Christmas, we can do our final drafting then. I think we will be aiming to table the draft constitution at the February/March sittings. During the course of this year, we will be producing material and finalising a document to present to the parliament in February/March next year. We can work over Christmas to do the adjusting and amending, taking into account the submission responding to the exposure draft as we refine our work. If submissions are not in by Christmas, we will be in real strife. You will probably have missed the boat. I am sure that a string of people will scream: 'How come I never got a say in it?' But you have to draw the line at some point in your life.

Ms LEE: Will the convention still accept submissions?

Mr HATTON: They will have total control over their own procedures. I am sure that they will take submissions. Remember that at least three-quarters will be elected by their electorates specifically for that one subject. If they are smart, they will be reporting back to their constituencies

about what is going on in there. So there will be ongoing feedback through your elected representatives on the convention. It is an increasingly inclusive process, through to the time when you walk into the ballot box and tick it.

Although I have not spoken with the committee about this, my recommendation will be that there be a vote on most of the core provisions in here, the basic structures that are set out and discussed. I will recommend that there be a vote on that. Those provisions that are capable of receiving specific independent consideration should be subject to choice votes: ‘Yes or no? Do you want these things in your constitution?’ Rather than being an inclusive all or nothing matter, the questions will be shaped through the referendum.

If you ask the people whether they want a bill of rights, they can vote yes or no. If you ask them whether they want this particular citizen-initiated referendum clause, they can vote yes or no. Those are things that can stand alone, if you like, without disrupting the entire constitution because they relate to specific subject matter. In my view, to do otherwise would run the risk that some people would vote no to the entire document simply because they dislike a particular clause. It is better to break it down so that you get the feeling of the majority of the community.

Ms HICKEY: There will be some interesting how to vote cards.

Mr HATTON: Remember the last federal referendum on the constitution? It asked people to vote yes or no and it asked 4 questions. If you disliked 1 of the 4, you voted no. Why didn’t it ask people to vote yes or no on each of the 4 points?

Mr COOK: Because they wanted a no in the first place.

Mr HATTON: They wanted to drag some unpopular things in with the popular ones. Either way, I think that is the wrong way to ask questions. In fact, you could prevent governments doing that. You could write into the ...

Mr COOK: Put it in your constitution.

Mr HATTON: ...You could write into your constitution the conditions under which questions are put to people. Those are the things you can think about. You have seen what they do elsewhere. If you think that is wrong, make sure they cannot do it. It is your great chance.

Ms SMALL: The last national referendum was a farce.

Mr HATTON: You might think it was a farce. You might ask: ‘Why should it be in the hands of the politicians?’ They can put up questions but why can’t the people put up questions?. The people might really want to put up a question that drags back the authority of politicians or forces up their public accountability, constitutionally. It will be very hard to make politicians to put such questions to the people but perhaps that is exactly what the people want locked in. When you are considering possible amendments to the draft, you may want to consider a mechanism to force the parliament to take a particular course of action. These are interesting ideas to bounce around. However, they are practical issues that we have all lived with and been frustrated about at various times.

A witness: Can I be excused? I need to leave.

Mr HATTON: Thank you very much for coming along. If anyone wants to stay and talk more, you are welcome. Do you have any questions, Peter?

Mr WYATT: Nothing.

Mr HATTON: Please take a copy of the book with you. Have a browse through any of the discussion papers and please do not feel shy about asking: ‘What do you mean by this?’ We are very keen to try and make sure that people understand.

Mr COOK: Steve, this appears to be the best kept secret in Tennant Creek. I did not find out about it till today. You said it was publicised. Did anyone else see it publicised?

Ms SMALL: It was in the paper. It was also in the clubs.

Mr COOK: Who sent notices out?

Mr HATTON: We will stop recording and close the meeting.