

KINTORE — Tuesday 4 April 1989

PUBLIC MEETING

PRESENT: -

Committee:

Mr S. Hatton (Chairman)

Mr B. Ede (Deputy Chairman)

Mr C. Firmin

Mr W. Lanhupuy

Mr D. Leo

Mr R. Setter

Officers assisting the committee:

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

Appearing before the committee:

Mr 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, yaltjiyaltji 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 wangkantja 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 ngaratjunkuntjaku, Northern Territory-ingka, Self Kapmantaku arangka. State law ngula tjunkuntjaku, 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 ngaranyi.

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 wiyamankuntjaku, 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 tjutangku kulintjaku kutju. Ngurrkantunkuntja wiya, kulintjaku kuju.

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 rawangku 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 ngananananyi watjantjaku, nganalu tjukaruralipai? Law palunya. Tjutangu ngananya anangu. Tjutangu, walpala tjutangu, 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, uwankarangku 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 tjutanku kulira. Ngaparitji 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 tjutanku wiya, anangu tjutanku walpala tjutanku 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 ngaranyi.

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 tjutangu 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: Alatji kuwari well ngula yaltji yaltji title witu kanyintjaku constitution-ingka, Northern Territory constitution-ingka. Yaltji yaltji kanyintjaku ngura miilmiilpa tjuta ngura tjukuritja tjuta. Yaltji yaltji kanyitjaku constituion-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 rawangku 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 ngaranyi 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 rawangku 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 ananyi, 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.