

PUBLIC MEETING

KATHERINE — Thursday 16 March 1989

PRESENT -

Committee:

Mr S. Hatton (Chairman)

Mr B. Ede (Deputy Chairman)

Mr C. Firmin

Mr W. Lanhupuy

Mr D. Leo

Mr R. Setter

Officers assisting the committee:

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

Appearing before the committee:

Mr Mark CROSSIN

Mr Trevor SURPLICE

Mr Jim FORSCUTT

Ms Prue ROUBICEK

Mr Leon CHOLSH

NOTE: Edited transcript.

Issued: 10 April 1989.

Mr HATTON: Ladies and gentlemen, thank you for coming along this evening. This is an unusual gathering. This is not the type of issue that immediately grabs everybody's attention. However, I would like to introduce our select committee and explain what we are doing and why we have come to Katherine. We are adopting a somewhat more formal approach than we have in some of the other communities around the Territory. If any person would like to express any views, we welcome that. A full transcript will be made of these proceedings. We also welcome any questions that people may have. Our aim at this stage is to start the process of encouraging the Northern Territory community to think about the form and structure of a future constitution for the Northern Territory.

This committee is known as the Select Committee on Constitutional Development. It has been operating in the Legislative Assembly since early 1986. It has had a number of changes in membership and, over the period of its existence, its terms of reference have changed. The terms of reference and the membership of the committee are indicated at the back of the booklet that is being circulated. As I said, our committee is unique because it is the only committee ever established by the Legislative Assembly that has equal representation from the 2 major political parties, Labor and CLP. There are 3 opposition members and 3 government members on the committee. The normal composition of a parliamentary committee is 3 government and 2 opposition members. This committee has equal representation to emphasise the clear bipartisan approach in respect of constitutional development for the Northern Territory. This is not a party-political issue

so far as we are concerned, particularly the work of this committee.

Everyone knows that I am a staunch advocate of a move to statehood as quickly as possible. However, my role is chairman of this committee and we are not asking the community to support or oppose statehood. That is not the question that is before us. We are asking the community to recognise that, whether it is in 5, 10 or 20 years time, the Northern Territory will become a state. However, before we can even consider that question, we will need to have developed a constitution. As a community, we will need to have worked through and have come to a decision on what sort of a society we want for that future state. It is the function of this select committee to work on that process.

We are working on the first stage of a 3-stage process. With legal assistance, the committee has undertaken some 3 years research into constitutions throughout Australia and the world. We have assembled a wide range of ideas and options in a discussion paper which was produced in October 1987. It can be pretty heavy reading but it discusses most of the issues that are likely to be brought forward when considering a constitution for the Northern Territory. There are some suggestions from our committee. There are many things that are not supported by our committee but are raised for the purpose of informing and consulting with the community. We are not trying to quash views that may exist in the community. We have also produced booklets relating to the options for the grant of statehood and a document entitled 'Representation of Territory Constitutional Convention'.

Our job is to move around the Northern Territory community in an effort to get people thinking about a constitution: what it is, what may be put in a constitution and what people would like to see in a constitution. We will be asking many questions. Some are simple and straightforward such as whether the parliament should be unicameral or bicameral. We may have our own opinions on such matters but we are asking for the views of the people in the community. Do you think that ministers should be selected only from elected members or should there be an opportunity to select ministers from other than elected members as is done in America? Do you think that we should have a Bill of Rights structure within the constitution or is it better not to do that? There are many such questions that we as a community will be confronted with. Should there be some constitutional recognition of the particular place of Aboriginal people in the Northern Territory? Should there be some constitutional guarantee of land rights?

I do not expect you to give me a clear answer today. I realise that many issues will be controversial and will be the subject of debate throughout the community. Our job today is to stimulate thought and discussion. We ask you to recognise that one day the Northern Territory will be a state with its own constitution. We are providing everyone in the community with the opportunity to have his or her say about how the Territory should function, what sort of a society we should have, how we should express that in our own constitution and how we can work towards that becoming a people's law.

This committee will take the community views and seek to bring them together into a document which we will recommend to the Legislative Assembly as a draft constitution. We will also be seeking submissions on the form and method of selection of a constitutional convention. That could be described as a giant drafting committee comprised of representatives of the Northern Territory community which would work through our documentation, accept, reject or vary it and arrive at a proposed constitution that would be put to a referendum of the Northern Territory people.

Thus, it is a 3-stage process and we are in the early days of stage 1. You will appreciate that it is not a process that will happen quickly. If we are to do the job properly, we must seek to involve as wide a cross-section of the people of the Northern Territory as possible. We must seek to arrive at a constitution that will provide a real place for everyone who lives in the Northern Territory, irrespective of their race, religion or creed. In that process, we should seek to build the sort of Northern Territory that we want. I believe that there can be no more significant exercise in which Territorians can participate. Such a process has not been undertaken in Australia for 100 years. It is unlikely to happen again but it is our opportunity to participate in that. With those opening remarks, I ask Mr Wes Lanhupuy, the member for Arnhem, and Mr Rick Setter, the member for Jingili, if they would like to add anything by way of introductory comments.

Mr LANHUPUY: As Steve said, it is important that the select committee is visiting major and remote communities throughout the Territory in order to ascertain the views of the people and to provide them with information. It is important that people are coming together to discuss the issues. We want people to start talking about the statehood proposal. The committee itself does not have in mind a proposed date for a constitution although we plan to report to the Assembly on what we have done in respect of gathering information in relation to such a constitution. The committee would like the people of the Northern Territory to tell parliament when they would like a constitution. We would like people to consider the information that we have provided, discuss it with people who have particular interests in relation to the terms of reference of this committee and give us their views.

As Steve said, we are happy to provide any information that people may want. People should feel free to write to the executive officer of this committee. I am sure that the committee would be more than willing to return to discuss any points of interest to the people of Katherine or to the people of other parts of the Territory. Once again, I stress that it is important that the information that you gain here should be discussed widely in the community. We do not expect an answer overnight. We are asking you to do what no state in Australia has done for 100 years. I support the proposal because we will have a state because of the types of powers and functions that we have in the Territory. It is crucial that the community assess what powers we should have as a state and that the new state will be the result of agreement among our multicultural community. We should arrive at a constitution of which we can be proud. We should be able to say proudly that it is our constitution.

Mr SETTER: About 3 or 4 years ago, the Chief Minister of the day indicated his intention that the Northern Territory would move towards statehood as quickly as possible. It is indeed possible to do that if there is a federal government that is favourably inclined towards that process and is prepared to pass an act of the Australian Parliament to put that in place. In fact, the constitution states that a new state can be created in 2 ways. It may be created by an act of the Commonwealth parliament under section 121 of the Commonwealth Constitution under which statehood may be granted on terms and conditions, including the extent of representation in either House of parliament, as the federal government thinks fit. The other option is to have a national referendum to alter the Commonwealth Constitution under section 128. Thus, if the federal government were so inclined, it could move to provide statehood for the Territory before the end of the year. However, the reality is that, unless that move is supported by the people of the Northern Territory, it would be for nought.

This is a bipartisan committee and we have all agreed that we must undertake a process of consultation with the people of the Northern Territory. That takes a long time because we have a widespread community with a very interesting mix of people. Indeed, nearly 25% of the population are Aboriginal people who have special needs and interests. All those people must be consulted and their particular needs taken into consideration. In August 1986, the Chief Minister of the day indicated that we would undertake this 3-stage process that Steve touched on earlier. First, there is the preparation of a draft constitution, then the convening of a constitutional convention and, at the completion of that stage, the Northern Territory government will conduct a referendum to ascertain whether or not the Northern Territory people support the draft constitution or the move towards statehood. If we reach that point, the Northern Territory government would go to the Commonwealth with a proposal that we should move towards statehood.

We have come to understand that this is a very long and complex business. The committee has spent the best part of 3 years putting together these documents and, if you read through them, you will find a whole range of options on the various issues that will affect the drafting of a new constitution. Thus, it is not a matter that can be dealt with lightly or quickly. As I indicated earlier, it is important that we undertake this consultation process and I am quite sure that we will return to Katherine again before we reach the end of this process. Our aim today is to obtain feedback and comment from the people of Katherine.

Mr HATTON: I know there are some people who want to put some views forward. I understand that Mr Crossin wishes to make some comments. Mark, I believe that you are here as Secretary of the Trades and Labor Council?

Mr CROSSIN: Yes, I am. Our substantive submission has already been before the committee. What I would like to do today is to indicate that we are in the process of completing a submission in response to Sir John Moore's report. If you do not have it already, I understand that you will receive a paper from the national office of the Federated Miscellaneous Workers Union which indicates that we disagree with the proposal seeking the handing over of industrial relations powers. We see no need or desire, if you like ... (tape cuts out) ... federal industrial relations system that we have in the Northern Territory and I understand that will also be supported by our major adversary, if you like, the Confederation of Industries. I serve notice that we have a draft position in response. I would be prepared to make some without prejudice comments ...

Mr HATTON: Perhaps I should clarify that our committee is not dealing with the issue of the transfer of powers or the mix of powers on statehood. We are dealing very specifically at the moment with the matter of what sort of a constitution the Northern Territory people will have for its own community. The other issues such as industrial relations powers and the transfer of powers, which may occur even before statehood, are separate issues and will be dealt with separately. We note the position that the Trades and Labor Council has adopted. We have at least one submission from the Miscellaneous Workers Union in respect of that particular matter.

Mr SETTER: Mr Chairman, was that received when the committee sat in Darwin?

Mr HATTON: Yes.

Mr CROSSIN: There is also another one coming from them in response to Sir John Moore's paper.

Mr HATTON: The committee also is reviewing that paper and we will be varying our response to it.

Mr SETTER: It is important to understand that the Chief Minister has indicated that he has approached the federal government for the transfer of the remaining state-type powers which, I understand, includes those in respect of industrial matters. That issue has been taken up by the Northern Territory government and it is a separate issue to what we are undertaking here today. Our concern is the consideration of the constitution.

Mr CROSSIN: Actually, having had an opportunity to read this briefly, you have answered some of the questions that I intended to ask. We believe that we will have a major role to play in the move towards a constitutional convention. On behalf of the Katherine Trades and Labor Council, I advise that we would take an active part in that convention. I think that I will leave it there because you have our substantive submission anyway.

Mr HATTON: Certainly, we look forward to submissions from the trade union movement in respect of what should be incorporated in the constitution or on any other matter. We are keen to have representations in relation to the constitutional convention.

Mr CROSSIN: All right. I think I will leave it there. Thank you.

Mr SURPLICE: I am Trevor Surplice from the Katherine and Regional Trades and Labor council. I would like to take this opportunity to endorse the stand of the Northern Territory Trades and Labor Council. The Katherine and Regional Trades and Labor Council endorses that stand. We are pleased to have the opportunity to hear from you. Some of our questions have already been answered. The council is concerned about the handover of industrial relations to the Northern Territory government. It has not been very smooth in the past. Hopefully, we might be able to overcome that in the future. However, I would like to go on the record as saying that we have reservations about the handing over of that power. I hope that the government takes that on board and, if it does come up, we will be able to work together a little bit better than we have in the past. That is all I have to say.

Mr HATTON: Our committee will be discussing a position in respect of Sir John Moore's paper, probably in Alice Springs in the middle of April. We are to have our next meeting there and we may be developing our responses then. I know that it is later than the government wants but that is when our committee has programmed it.

Mr SURPLICE: We will have the opportunity to make written submissions?

Mr HATTON: Certainly. The committee is here to explain what we are doing and to encourage people to find out a little more about this entire matter. We want people to develop an attitude and tell us about it. We want to encourage discussion in the community.

Mr SURPLICE: We were not briefed on this. Unfortunately, I only found out about it at 12 noon in Darwin today. Of course we have not had the opportunity to make any sort of a submission. We can listen to you today and then go away and draw up a submission.

Mr SETTER: Please do.

Mr HATTON: Thank you. I call on Mr Jim Forscutt, the Mayor of Katherine.

Mr JIM FORSCUTT: Thanks, Mr Chairman. I am here as a private citizen. I have not spoken to the council directly about the problems and therefore I prefer to speak in my own right.

Firstly, I have not fully understood the full implications of what was expected of me. However, I am happy to say publicly that I support the move to statehood. I have noted a few matters that I would like to see considered if that has not been done already. If you would bear with me, I will put them to you and you can tell me whether or not they have been considered in the overall context. The first is the flag, coat of arms and flora and fauna emblem. They should identify our flora and fauna such as Sturt's Desert Rose, the eagle, kangaroo etc. We do have those in our emblem but I am not sure whether they are fully recognised. I would like to see that matter covered in legislation.

Mr HATTON: There is a legislative basis for those emblems at the moment.

Mr NICHOLSON: That relates to the self-governing Northern Territory. Whether it would be the same for a new state is a ...

Mr FORSCUTT: Thank you. Probably, I am duplicating matters that you have looked at already.

I refer also to letters patent constituting the land, waters and islands of the Northern Territory. It is very important, if it has not been done already, for that to be identified so that we know exactly what we are talking about when we refer to the Northern Territory.

Mr HATTON: That is a matter that we wish to discuss with the Commonwealth. There are areas such as the Ashmore and Cartier Islands of course.

Mr FORSCUTT: Sure. What brought it to mind was that I saw an article on Dawn Lawrie and I thought that they come under the Territory.

Mr HATTON: Only in respect of federal elections.

Mr FORSCUTT: Yes.

I would like to see freedom of information included in the Northern Territory constitution. You might not agree with me.

Mr HATTON: That is not a constitutional matter. It is dealt with by way of legislation.

Mr FORSCUTT: I raise that as a matter of concern.

There is also matter of a Bill of Rights. I believe that, for too long, people have not really known what their rights are. I think they should be spelt out in the clearest terms.

I also want to see local government given recognition within the constitution as the third tier of government. I think that is very important.

Mr HATTON: Both of those matters are in here.

Mr FORSCUTT: I appreciate that. All I am saying is that I support that.

Another matter is precedence. Is the Administrator the head man in the Northern Territory at this stage? I presume that the Chief Minister is second and the Speaker of the Legislative Assembly third. I would like to see an order of precedence included so that it is made quite clear.

Mr HATTON: There is a table of precedence now.

Mr FORSCUTT: But I would like to see it in the constitution as a matter of course.

Mr HATTON: It may not appear in the constitution because it relates to all sorts of people such as ministers of religion etc.

Mr FORSCUTT: I do not care if you take the first 50. My point is that it should be there so that there cannot be a change in the future without the people knowing about it.

When we become a state, sections of the Australian Constitution that do not pertain to us as a territory will pertain to us. That relates particularly to section 100 and section 92. Mr Chairman, thank you for your time. Now that I have some more material to read, I will think about the issues and endeavour to put something else together for you.

Mr SETTER: Have you got this one, Jim?

Mr FORSCUTT: Yes. I think it was sent to council. It would be on file.

Mr HATTON: That is a key document.

Mr FORSCUTT: Are there any questions that you wish to ask me at this stage?

Mr HATTON: You referred to the matter of the recognition of local government and I anticipate that that will be a matter for significant debate. I realise that you are not here as a representative of local government.

Mr FORSCUTT: 80% of the constituents of the Northern Territory are controlled in some way by a local government or a community government.

Mr HATTON: Most state constitutions provide a recognition for local government.

Mr FORSCUTT: But the federal Constitution does not?

Mr HATTON: No.

What form of recognition are you talking about? Is it a recognition that local government has a role or are you talking about recognition of the right of citizens to have local government? Would there be a compulsion to provide a form of local government for all citizens or would it be optional? There are areas of the Northern Territory which do not have local government.

Mr FORSCUTT: Yes. I am referring to those that do. I do not want to get into a debate with you. To a degree, local government was forced on many of the communities. I would like to see the whole of the Northern Territory become a state. The terms of that do not make any difference to me. The whole of the Territory should be in that state. As for the matter of local government, I would say that it needs to be recognised in the strongest terms and the devolutionary aspects can be considered at some stage.

Mr HATTON: Yes. There are a series of questions that arise in relation to that. I am not asking you as a representative of local government.

Mr FORSCUTT: No. I could not give it to you.

Mr HATTON: Perhaps the local government community in particular could consider whether the division of powers between the state and local government should be spelt out in the constitution. Should there be a requirement to provide some form of local government, be it community government or local government or shire government, for all areas of the Northern Territory or should we provide a vehicle that would enable it to expand as the communities want it to expand by giving them a right without a compulsion? There are a number of questions involved that perhaps we can wrestle with over the course of the next few months.

Mr SETTER: Jim, could I refer you to page 90 of this booklet? The heading is 'Local Government'. I will quote from paragraphs 5 and 6:

The select committee notes the special situation of the Northern Territory where vast areas are not within any local government area. Other areas are covered by community government schemes. Any decision to extend local government or community government is appropriately a matter for the new state in consultation with the local residents. Constitutional recognition of local government must take into account the special situation of the Territory and the associated difficulties of administration.

Subject to these considerations, the select committee favours some constitutional provisions for the recognition of local government in the new state. It invites public comment on the nature of those provisions.

Mr FORSCUTT: Yes. I have those marked and I will endeavour to address them.

Mr HATTON: Would anybody like to raise any questions?

Ms ROUBICEK: Are those discussion papers available?

Mr HATTON: Yes they are. There are other discussion papers available to the community which do not deal specifically with the constitution but are relevant because they deal with issues such as land matters upon statehood and, potentially, such matters will have significant constitutional implications: land rights, Commonwealth land being held for state-type purposes at the moment, minerals and energy resources and national parks. There are other papers dealing with those

questions. We are happy to make them available to you.

Mr FORSCUTT: In relation to explaining the overall context of statehood to the people, which is not a direct role of this committee but is a part of the ongoing process, what is being done to make people aware of the whole deal and its best potential?

Mr HATTON: That is the aim of this literature that has been produced. Inevitably, as people discuss what they want as a society and what they may be able to achieve as a society, the other aspects will flow from that. As they discuss their constitution, they will discuss what can and cannot be done.

Mr FORSCUTT: With respect, the 2 biggest questions that are being raised by people is what it will cost and whether there are sufficient people to constitute a state.

Mr HATTON: I would be happy to address those now if you like.

Mr FORSCUTT: I was not aware that you were dealing with those sorts of areas as such.

Mr HATTON: People have been saying to us that they do not trust the Northern Territory in relation to land rights. All sorts of issues have been raised and in no way are we attempting to dodge them.

Mr FORSCUTT: In respect of statehood, people are asking me continually what it will cost us and whether we have enough people to constitute a state. As the committee would be aware, South Australia entered federation with 100 000 people many years ago and I believe the Northern Territory has a population of some 145 000.

Mr HATTON: 175 000.

Mr FORSCUTT: I stand corrected.

I read in a book called 'Kings in Glass Castles' that Queensland entered the federation with a population of 25 000 and with 7½ pence in the bank. I do not think that the Territory is broke at this stage. I hope it is not.

Mr HATTON: Far from it.

Mr FORSCUTT: Those are the 2 questions that are uppermost in people's minds.

Mr HATTON: Perhaps if I could deal with those. Firstly, the size of the population of the Northern Territory is absolutely irrelevant to the question of statehood. You were correct in saying that, when the existing states became self-governing colonies, they had fewer people than we have at the moment and they also had less technology available to assist them in governing vast areas. They did not have aeroplanes and telecommunications. We have in place a legislature, the administrative infrastructure, the public service, the hospitals, the schools, the courts, the police etc. All the infrastructure that is essential for a state is there already. Territorians are taxed at the same level and face the same mix of taxes as people in the states.

Since 1 July 1988, the funding received by the Territory is calculated exactly as if we were a state. The funding comes from the common tax-sharing pool. Our share is calculated at the same time and by the same body that calculates those for the states: the Grants Commission in its relativities review. The same factors and formulas are applied to the Territory as to the states. The Grants Commission determines what it will cost to provide a range of services and facilities that is standard throughout Australia. It costs more to do that in the Territory than in Sydney because of our vast and sparsely populated area. To provide a teacher to an Aboriginal outstation costs much more than providing one in Darwin and certainly much more than providing one in Sydney. The Grants Commission calculates all those costs. It then determines our revenue-raising capacity based on standard charges and taxes and provides us with the difference between those 2 figures. People forget that all the states in Australia receive an average of 60% of their money from the federal government.

Mr FORSCUTT: Thank you. That was the next question that I intended to ask. People in the community say that, per head of population, the Territory is being well and truly looked after by the Commonwealth. You have answered that question.

Mr SETTER: As Steve mentioned, 60% is the average for the states but New South Wales might receive 55% and a small state such as Tasmania might receive 70%.

Mr FORSCUTT: If we are being charged the same level of rates and taxes as the states, why don't we receive fair representation in the federal Parliament?

Mr HATTON: Because we are not a state.

Mr FORSCUTT: Right. When we become a state, I believe that our representation in the Upper House should be the same as that of the other states.

Mr SETTER: We do not have the same constitutional benefits and rights as other Australian citizens.

Mr FORSCUTT: Well, no taxation without fair representation.

Ms ROUBICEK: I presume that the committee has not yet reached any conclusions but I hope that representation will be on a par with that of the existing states. What do members of the committee feel about that?

Mr HATTON: Each can speak for himself. My view is that, if we are to become a state, we should become a state in the true sense of the word and we should have equality with other Australians. Part of that equality is equal representation in the states' House. Size of population is irrelevant to that. I support the view that we should have equal representation in the Senate. In my view, that is the only just solution. I suspect that the political reality will be - and you have heard Mr Setter talking about section 121 - that to achieve that equal representation may need to be phased in. I suspect that there may be a phasing in of Senate representation. However, I would not be prepared to stand before the people and say that I have made the Territory a second-class state for ever. I would never do that. We must work towards full equality and not become, to use a hackneyed phrase, a Clayton's state.

Mr SETTER: There is no doubt that, in the long term, the Territory must achieve equal representation and we must lock that in in some way when we achieve statehood. The Senate, of course, is the states' House in which all the states are equally represented. At the moment each state has 12 Senators and there is a nexus between the number of members in the House of Representatives and the number of Senators. The number of members in the House of Representatives is approximately twice that in the Senate. However, they are distributed on the basis of population and therefore the number for each state varies.

I have spoken to many interstate politicians and the political reality is that they are very concerned that, if the Territory immediately achieved 12 Senators, that would mean approximately an additional 24 members of the House of Representative. Their concern is where those additional seats would be created and which political party would benefit. That is the bottom line. My view is that we must accept that we may have to move to statehood with fewer Senators than 12.

Mr HATTON: But with a guarantee that the number would increase.

Mr SETTER: That is right. There would need to be a formula, on the basis of time span or population growth, to achieve 12 Senators at some stage in the future.

Ms ROUBICEK: But we have had written guarantees from the federal government in the past.

Mr HATTON: It would need to be written into the Northern Territory Constitution Act.

Ms ROUBICEK: Entrenched. We thought other things were entrenched too.

Mr HATTON: No. They were simply agreements.

Ms ROUBICEK: Were they?

Mr HATTON: They were memorandums of understandings. They were not even acts of parliament.

Mr SETTER: They were not much better than a handshake.

Ms ROUBICEK: Some handshakes are better than others.

Mr HATTON: Yes. It depends on whose hand you are shaking.

Mr LANHUPUY: The Labor Party supports equal representation with the other states. Because we are taxed at the same rate as the states, our representation should be the same.

Ms ROUBICEK: Do you believe that the federal government will grant us statehood or do you think that we need to have a referendum and an education process down south?

Mr HATTON: The federal government has said that they will take the Northern Territory to statehood when it has been demonstrated that the people of the Northern Territory want it. I suspect that that means when we have had a referendum and the people have voted in favour of it. There has to be a clearly expressed desire of the people of the Northern Territory to take that step before the federal parliament will react to it. Certainly, with the current federal government, that is the position that the Prime Minister has put in writing to the Northern Territory government.

Ms ROUBICEK: Is it clear that the public wants statehood? Is that the feeling that you get when you travel around?

Mr HATTON: No. People do not understand enough about it. People are reluctant to enter into something that they know nothing about. Our job will be to explain it to the community as fully as possible so that people know what they are embarking on. When that has been achieved, I think that you will find that the community will want to take that step. However, in the absence of clearly defined answers to their questions - and the making of a constitution is a part of a clearly defined answer - I don't think there would be an overwhelming support in the community to move now.

Ms ROUBICEK: But the same was true before self-government.

Mr HATTON: Yes, but that was able to be done by a simple act of the federal Parliament and the Northern Territory people were not asked.

Ms ROUBICEK: No, but they were educated a little.

Mr HATTON: After the event.

Ms ROUBICEK: And prior to that.

Mr SETTER: That was one of the issues at an election at the time. From memory, that was a fairly close election.

Mr HATTON: I do not think anyone of us wants to go to an election campaign over the issue of statehood.

Ms ROUBICEK: Not at this stage.

Mr HATTON: Neither side would want to do that.

Ms ROUBICEK: Thank you.

Mr CHOLSH: I have one question. How will the constitution affect the Territory's powers in relation to land rights?

Mr HATTON: One of the critical questions being asked, particularly among the Aboriginal communities, is what guarantee they will have that their land rights will be protected when the Northern Territory becomes a state. There is no doubt that the position that is being adopted is that, with the Northern Territory becoming an equal partner with every other part of Australia, the Land Rights Act would be patriated to the Northern Territory. The land options paper that I referred to earlier deals with such questions. I am happy to make a copy available to you.

It states clearly that the aim is to guarantee a retention of land rights, a retention of Aboriginal ownership of their land. There are recommended procedures to ensure that protection. It also suggests that what we should be doing is talking to the Northern Territory community, the Aboriginal community in particular, about what sort of a Land Rights Act they want. Should the structure of the existing Land Rights Act be changed? Are there different ways of doing things that may evolve? No fixed position has been adopted as to what the nature of land rights should be. It is a matter that should be sorted out by all Territorians. One question that is important for this committee is whether some concept of Aboriginal land rights should be entrenched in the constitution of the new state. That is a question that is before the committee at the moment.

Mr SETTER: At page 93 of that document, the committee says that one option that is favoured by it is to entrench the guarantee of the ownership of Aboriginal lands in the new state constitution such that it can be amended only by following specified procedures. The extent of the guarantees and the degree of entrenchment are matters on which public comment is invited. We must bear in mind that the existing Land Rights Act is an act of the Commonwealth parliament. It would be patriated to the Northern Territory. In fact, the Northern Territory government has already approached the Commonwealth government for that transfer. I suspect that the ownership of land by Aboriginals would be entrenched in some form in the constitution ...

Mr HATTON: In fact, it may even strengthen the Aboriginal people's position.

Mr SETTER: ... as opposed to entrenching the Aboriginal Land Rights Act as such.

Mr HATTON: That is a conceptual idea and we are no further advanced than that at this stage. There are some meaty questions there to wrestle with, aren't there?

Mr SETTER: It is worth noting that, if the Northern Territory is ever to succeed in its move towards constitutional development and eventual statehood, that move must have the support of the majority of Aboriginal people because they constitute almost 25% of the population.

Mr HATTON: As well as the majority of non-Aboriginal people. It will make the Northern Territory community confront the reality of its people and the matter of making a place for everybody. That is what this process in fact involves.

If there are no other matters that anyone would like to raise, I will formally close these proceedings. I thank you for your attendance. I hope you have gained an insight into where we are going and that we have encouraged you to put your thinking caps on, to talk about some of these matters and to develop views in relation to them so that, when we have the opportunity in the future to come back, we will obtain some positive views from the community. We invite you all to contact us if you wish more information. Mr Rick Gray is the executive officer for this select committee. We have a toll free telephone line and he can give you the number. I think it is in that book.

Mr GRAY: It is 008 189 117.

Mr HATTON: That is the number to ring if you wish any further information or documentation. We may even be able to arrange for someone to travel here to address particular matters that you may wish discuss. I invite you to take advantage of those opportunities. Thank you very much for coming.