

PUBLIC MEETING

BATCHELOR — Friday 31 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 Harry de SACHAN

Mr Ron PEARCE

Mr Ken MARSHALL

Ms Jackie HARGRAVES

Mr Dave SHOOBRIDGE

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

Mr HATTON: I formally declare open this meeting of the Select Committee on Constitutional Development in the town of Batchelor at 12.35. As I have said, thank you very much for coming along today. It is not a topic that immediately grabs the imagination and the attention of people. However, I trust that, by the time we have finished this afternoon, we will have encouraged you to think a lot more seriously about the issues that we are dealing with and to recognise the importance of this to you. Our committee is known as the Select Committee on Constitutional Development. It is a committee of the Legislative Assembly and is comprised of 6 members. There are 3 of us present at the moment. My name is Steve Hatton. I am the chairman of this committee and also the member for Nightcliff. There is also Rick Setter, the member for Jingili, and Col Firmin, the member for Ludmilla. There are also 3 ALP members: Brian Ede, the member for Stuart, who is also the deputy chairman of the committee; Wes Lanhupuy, the member for Arnhem, who I hope will be arriving shortly; and Dan Leo, the member for Nhulunbuy.

The committee is unique in the Assembly in that it has equal representation from both ALP and CLP. That, as much as anything else, is a reflection of the bipartisan approach that is being taken to our work in this process of constitutional development. It is not an issue where there is argument between the ALP and the CLP; it is not a political fight exercise, as some things are. Sometimes things come up in the process of government that actually are more important than the politics of it and this is one of those exercises. It is fundamentally important to the future direction and shape of the Northern Territory. What are we doing? The first thing to say is that we are not going to ask you whether you support statehood or

are opposed to statehood. That is not the question we are dealing with and it is not a question we are asking of you.

The member for Arnhem, Wes Lanhupuy, has arrived.

As I said, we are not asking you the question about whether we should become a state or not. But I would ask you to recognise one fact: whether it is next year or in 5 years or 10 years or in 20 years, one day the Northern Territory will become a state. That is inevitable. You can argue about when you think it should happen but it will happen one day. However, before that can even be thought of, you need to have in place your own constitution. Your constitution will reflect how you want a new state to operate, how you want your rights protected, what the ground rules are that you are going to set for the parliament, the courts and the politicians. When you have that, you can start asking yourself the question: 'When should we become a state and under what conditions?' But, until you have got the constitution, you cannot even start to address that issue. That is why there has been so much waffling around the question about when statehood should occur, because this job has got to be done first and, when we have done this job as a community, we can then start asking ourselves the other questions.

Our committee's job is to start that process and guide it. We have been working now for nearly 3 years and, as a result of that 3 years of work, we have produced a discussion booklet called 'A Discussion Paper on a Proposed New State Constitution for the Northern Territory'. It is fairly thick. It has got an awful lot of information, arguments for and against different things that would go into a constitution. That is the summary result of researching through all the constitutions in Australia, our own Self-Government Act and constitutions overseas and around the world, to come up with the sort of things that could be thought about in a constitution. None of us agrees with everything in there, but those are issues that need to be considered by the community when looking at the matter of a constitution. To give you a better and easier introduction, the booklet I have just distributed is an easier introduction to what a constitution is and what parliament and government are. That is an introduction to the more detailed booklet on particular issues and we will leave copies of that with you.

We are now going around the communities encouraging people to read, to think, to talk about the issues and, as a community and as individuals, work out their own ideas and what they think should be in there. We want you to come forward and tell us what you are thinking. What are your views? We will take all those submissions, work through them and prepare a recommended draft constitution. We will also be making representations on the way we deal with the second stage. This is only stage 1 of a 3-stage process. The second stage is that we want to form what is known as a constitutional convention. In ordinary language, that means we want to get a giant drafting committee of a representative group of Territory citizens. How big that group should be, how we go about selecting them, who should be represented - all those are questions that we want you to think about and come forward with your ideas. There is an introduction in that discussion paper on representation in a Territory constitutional convention but that convention will be taking our work and all the submissions that come to us, all our research and our recommendations, and working through that. The convention will eventually produce a proposed constitution which will then go back to the Territory electorate in a referendum for acceptance or rejection. If it is rejected, then we will have to go back and start again and try and get it right and keep at it until we get a constitution that the Territory people say: 'Yes, that is what we want'.

And what are you looking for? You are looking for a document that sets the foundations and the guidelines on what sort of a society you want the Northern Territory to be as it goes into the next century. It is fundamental to the future direction, protection and development of your rights as citizens. That is why it is so essential for you to participate in it, not only for your own benefit but for the benefit of your children and your grandchildren because they will be affected by the results of this work. That is why, as a committee, we are working very clearly on a bipartisan basis to stimulate the Northern Territory people to participate in this process so that, in the end, it is very much the people's constitution, produced by the people and for the people. It is the foundation stone for our future.

Having said as much as I want to say, I briefly offer the opportunity for other members to make some comments and then I will be asking if you would like to give us some views or if you would like to ask questions or seek more information. Please take the opportunity to do so because that is what we are here for. We would like to provide the vehicle to assist you to start working on this task.

Mr LANHUPUY: Thanks, Steve. I thank the members of the community here in coming along to this meeting that the Constitutional Committee has organised. I do not necessarily want to go over old ground which I believe Steve has already done in explaining to you the basics of what this committee is on about, what we intend to do and how we hope to present our final report to parliament prior to going to our convention and then a referendum by the people of the Territory. I just

want to stress the importance of the fact that it is essential that people throughout the Northern Territory give us their views and try and have other people interested in discussion on the issue at hand which, hopefully, is the processes for arriving at a constitution for the Northern Territory. I believe, as much as the other members of this committee, that that is crucial. No other state has done it for the last 100 years. We are now entering a new phase of development in the Northern Territory and that is why it is crucial from my point of view that we get the views, the submissions, the questions. If you have any questions, put them forward to this committee or to the executive officer of this committee so that we can at least be aware of the issues that you want to raise and, hopefully, incorporate those, along with whatever submissions you may have, within our final recommendations to the parliament.

Once again, I stress that it is essential that people start talking about it. By generating that interest, at least in our own minds, we will be satisfied that the majority of the people in the Territory are talking about it and expressing their views to us. It is important from our point of view to be able to get out to the community as much as we can and exchange views on what we believe is a very important matter for the Territory's future.

Mr HATTON: Thanks, Wes. Col?

Mr FIRMIN: Thank you, Steve. I do not want to talk for very long but I would just like to expand on a couple of themes briefly, as I have done at other meetings that we have attended. Particularly, I would like to draw your attention to the sorts of things that I say when we visit Aboriginal communities. The Aboriginal community as much as the white community is going to play an important part in the development of the constitution. They are a very large proportion of our population and, unless we all get together and design a constitution which reflects the attitudes which will allow us to jointly develop the Northern Territory, the constitutional mechanism which we are going through now will not succeed.

I would like today also for you not only to consider the constitutional requirements as it relates to the white population but also as it relates to the Aboriginal population in the Northern Territory. We would like views from the white community on matters such as land rights and Aboriginal law as much as we would like that from the Aboriginal people. I have been putting that to them and I will put it to you. I keep saying to them that we must not adopt an entrenched view in putting forward or promoting those ideas. We must look at the promotion of the constitution in such a way as Steve and I have suggested to the Aboriginal people. We, who are living here now, our children who have been born here and their children into the future must be able to work together for the development of the Northern Territory, and not in a conflict situation. Part of what I would ask you to do, when you go away and talk to other people, is to consider that part of the discussion and reflect those views in the community as well.

On that point, I would also suggest that we do not necessarily expect to have a complete view from your community today. We consider that some of the things we will talk about will open up further avenues for you to think about and that you should go away and discuss those among yourselves and with other people whom you talk to and, at some stage in the future, we as a committee will be prepared to return to your community and pick up your views as they have then coalesced over a period of thinking about it and discussing it among yourselves.

Mr SETTER: Steve pointed out earlier that the role of this committee is that of developing a draft constitution. He also said that, at some stage in the future, the Northern Territory will eventually achieve statehood. That will certainly be the case and it is indeed my wish. Our role is to develop the constitution. I would just like to refer you to this document of which copies are available. It is entitled 'Discussion Paper on a Proposed New State Constitution for the Northern Territory'. Within it, there are various options proposed on a whole range of issues. However, I would like to read to you one of the recommendations on page 2. The select committee considers that statehood for the Territory must provide for constitutional equality with other states. This in part can be achieved by the preparation and adoption of a new state constitution to replace the Northern Territory Self-Government Act.

It is important to understand that we operate at the moment under what is called the Self-Government Act of 1978 and that is an act of the federal parliament which granted statehood to the Northern Territory. That is as secure as the stroke of the Prime Minister's pen because he can take that away from us tomorrow by rescinding that act of parliament or amending it or amending the regulations that apply. There is not a jolly thing that we can do about it other than, of course, to create a political climate here that might be fairly unfavourable for his supporters. Nevertheless that is the reality of the constitutional position.

The other thing that the committee recommends, and it was a unanimous view of the committee, is that the new state constitution must be prepared by Territorians because, once again, it would be very simple for our committee to sit down

and draft a new state constitution. In fact, we have come up with all these options. We could complete that and formalise it into a draft constitution. It would also be very simple for the government of the day in Canberra to do exactly the same thing. It could write a constitution on our behalf and force it on us and, again, we could not do a thing about it. It is our view that it is very important that we draft the constitution and that all Territorians have the opportunity to have input because, at the end of the day, we are going to come back to you and ask you to vote on a referendum supporting the draft constitution. We believe that unless you, the community at large, have had the opportunity to have input and discuss the constitution and all the matters that relate to it, then we cannot expect the majority of people of the Northern Territory to support it. That is why we are here to talk to you and seek your views, to discuss your concerns and explain about the constitution as best we are able to. At some time in the future, we will come back to you with a draft constitution and enlist your support for it.

Mr HATTON: The point needs to be made that we are not dropping this on your plate today and asking you to tell us all that you are thinking. We are not doing that to you. If you have been thinking about it, we would like you to tell us what your views are. You will notice microphones around the place and, in fact, this meeting is being recorded and will form part of the permanent Hansard public record of the work of the committee. Eventually, it will be going forward to the convention, as will the transcripts of all future meetings. We do not want to forget what is being brought to us today. We will certainly be coming back at least once more to the community but we want your community to become involved and get together and talk about it. If you want somebody to come down and talk about this or that aspect, let us know and we will organise that, within reason and practicality. You know, you cannot be in 3 places at the same time. Within that sort of reasoning, we are very keen to support any community discussion and involvement in the process. I cannot emphasise enough how important it is for you to take the opportunity to become involved in this task. Does anybody have any questions or would anybody like to make any comments?

Mr de SACHAN: You were talking about equality with the other states. It is quite simple. Under the federal Constitution, we have to have 10 Senators. There is no bargaining or anything. We cannot have ...(Indecipherable) ... It looks to me to be highly illegal and I do not care much about it. But, it is only a matter of time before we will become a state and we must have the same number of Senators that are allowed under the Constitution.

Mr HATTON: The number is 12, by the way.

Mr de SACHAN: Sorry, it is 12. You are quite right. Numbers shouldn't come in to it now because they didn't in the first place. When the Constitution was drawn up, there was not one word of numbers. Each state was equal in the Senate.

While I am on it, and that's got the Senate over, what type of a government were you thinking of running here? Is it to be a 2 House affair or what?

Mr HATTON: That is one of the questions that we are asking you. You will find it in these booklets.

Mr de SACHAN: Well, if you are asking me personally, you will have to have a 2 House parliament. I do not know where you are going to get the members from, with such a small population, but it has to be the same as the rest of the states, baring Queensland which has gone backwards there. I think you have must have an Assembly like the one that you have got and you must have an Upper House of some kind that has a continuous existence. Parliamentary members come out every so often. At this stage, you have not got an answer on that?

Mr HATTON: No, there is a clean sheet of paper at the moment.

Mr de SACHAN: Yes, that is all right. I am saying what I think.

Mr HATTON: The committee is recommending that there be a unicameral system - that is, a 1 house system.

Mr de SACHAN: What?

Mr HATTON: Our committee is of the view that there should be a 1 House parliament. But, the arguments for and against both cases are set out in here so that you tell us what you want.

Mr de SACHAN: Well, I know what I want. I am telling you.

Mr HATTON: Yes, I heard that. That is good. You are the first person to raise that with us.

Mr de SACHAN: It is the only permanent way that you can run your own state. I have seen your book here. It starts off with 'if we become a state'. Now, it should not say 'if we become a state' because we are going to become a state, whether it is tomorrow or in 40 years time. We will become a state and we have got to have a constitution that will run a state. Now I am sure that we would become almost as bad as Queensland if we only have a single House. They had an Upper House once but they got rid of it for reasons best known to themselves. I am a Victorian and I would like to see it run the way we do in Victoria - or South Australia or New South Wales.

Mr HATTON: It certainly is an issue and it is an issue that you really need to think about. I just ask people if they would like to look at the arguments for and against. I know many people have said they want 1 House, not 2. The arguments are in here for and against and we need to obtain a cross-sectional view of the community.

Mr de SACHAN: Do the people who want 1 House have any idea of what happens when you have got something like what happens in Queensland. You have got no state, no House of review, you have got no brake, you have got nothing. All you have got is the government. I can go on, if you like, on some other subject.

Mr SETTER: I was just going to take up that point regarding Senate representation. You said that we should have 12 Senators. The situation at the moment is that we have 2 Senators but the Australian Constitution is written for the Commonwealth and the states. The reality, as I understand it, is that as a territory we are really not entitled to any Senators at all.

Mr de SACHAN: That is correct.

Mr SETTER: Sure, so what you are saying is that, when we become a state, we should have the full quota of 12 Senators. We agree with you, but the political reality is that it is most unlikely that any of the political parties in Canberra would accept the Northern Territory becoming a state with a full complement of 12 Senators immediately.

Mr FIRMIN: From day 1.

Mr de SACHAN: What are they going to do with the Constitution then?

Mr SETTER: There is a reason for that. Because of the nexus between the states House, where there is an equal number of Senators for each state, and the House of Representatives where the number of members in the House of Representatives is approximately twice that of the number of Senators. If we go to 12 Senators, meaning an additional 10, there would be approximately an additional 20 members of the House of Representatives immediately. That is based on population as spread throughout this country. There is a formula for that. We would probably pick up an additional member but New South Wales and Victoria would pick up the majority of them and the rest would be picked up by the other states.

Mr HATTON: The Senate question ...

Mr SETTER: Steve is going to explain it again.

Mr HATTON: Because we are a self-governing territory, basically we have none of the protections of the Australian Constitution because it refers to the federation of states. We are not a state. That is why we talk about statehood being a constitutional shift. Under section 121 of the Constitution, the federal parliament can create a new state. That is the simplest and most straightforward way of doing it. Under that section, statehood may be granted on such terms and conditions, including the extent of representation in either House of the parliament, as the federal parliament thinks fit. Thus, there is not an automatic guarantee that a new state will get equal representation in the Senate. We are going to have to fight for it. Harry, the point you made about justice and why we should have equal representation is absolutely true, but please be clear that the way the Constitution is drafted, we do not have a guarantee of that. That is one of the issues that we will have to fight for at the time of statehood.

Mr de SACHAN: That surprised me very much because in the original ...

Mr HATTON: The original states have a minimum of 5 House of Representatives members and equal representation in the Senate.

Mr de SACHAN: That is how we got Queensland, Western Australia and Tasmania into the Commonwealth otherwise they would not have come in.

Mr HATTON: That is right. But they did not give the same guarantees for future states.

Mr de SACHAN: This has now been altered?

Mr HATTON: No. That was there.

Mr de SACHAN: No, I am sorry. My wording is not quite right. Now, any new state will come in under a different agreement altogether?

Mr HATTON: That's right.

Mr FIRMIN: Harry, they named the states in the Constitution when it was drawn up and they made a provision, for example, for Western Australia which was extremely reluctant to join the federation. There was a scenario in the constitution which allowed for Western Australia to join or not to join and the balance of the Senators and the House of Representatives were different in both scenarios.

Mr de SACHAN: Of course, we are all sovereign states still. We have only just joined the Commonwealth. At any time, any of our states can pull out of the Commonwealth.

Mr HATTON: No, they cannot. Because when they formed it, they formed an indissoluble federation of states.

Mr de SACHAN: I don't believe that.

Mr HATTON: That is the preamble.

Mr de SACHAN: It does not matter. It is not what we are discussing at the moment, is it?

Mr HATTON: No, it is not.

Mr de SACHAN: We can go into this with fewer Senators than the rest of the states have.

Mr HATTON: That is technically possible. Mind you, please understand that we are sailing into uncharted waters.

Mr de SACHAN: I understand that.

Mr HATTON: There has never been a new state formed in Australia and you have got to ask the question of how section 121 is interpreted. I reckon we will be in and out of the High Court at least a dozen times finding out what the Constitution means. This section relates to other sections in the Constitution. When is a state a state? It is like: are you a little bit pregnant? It is a very complicated issue. We are trying to come back from a lot of those issues which are the ones you run into when you say, 'Let's become a state'. Before you can even think about that, you have got to say: 'What do we want to be on that day'? That is what we are talking about in our constitution.

Mr PEARCE: The first thing that pops into my mind when you start talking between 2 Senators and 10 for our population, and this is also a double-barrelled question, is how we will fund ourselves. I will come back to that. If you go into statehood with 10 or a dozen Senators, how is the state going to be able to finance those extra bodies? It is all a cost factor.

Mr HATTON: I will deal with the second part first - the question about Senators. The federal government pays the bill. They are federal representatives, paid out of the federal budget, not the state budget. When the federation of Australia was formed, why did they have a Senate and why did they provide equal representation? You know and I know that the way Australia is structured is that about 80% of the people live in that south-eastern corner and it was the same in the 1890s when they were looking at the Constitution. If you happened to live in Western Australia or Queensland or South Australia or Tasmania, you saw that and said: 'Okay, we are going to have a House of Representatives. Each electorate is going to be about the same size and there will be a whole bunch of politicians coming from that south-eastern corner and a few from the other areas which have low populations. The bulk will come from that little corner and, politicians being what they are, will make sure they get re-elected and will start punching all the money in where all the votes are - into that little corner - and the rest of Australia will miss out'. The other states said: 'That is not very fair. We want something to counterbalance that imbalance. To do that, we want a second House, a House of review where, irrespective of your size geographically or the size of your population, you are all on an equal footing. We want a states House that will force the

federal parliament to look at all of Australia, not just that little corner where all the votes are'.

That is why the Senate was formed the way it is. That is why it is important, when we become a state, that we are standing on equal ground with the other states. Australia is not the only place that does that and I will quote you the United States example which is where our federal structure was developed from. In the United States, the state of Wyoming is the smallest state in the union. There are some 310 000 people in that state yet it has the same Senate representation as California which has 24 million people.

Mr PEARCE: And how many Senators is that?

Mr HATTON: There are 2 Senators.

The point that Mr Setter was making is why we have 12 Senators. I will tell you why we have 12 Senators. It is because the Australian Constitution says that for every Senator there will be 2 House of Representatives seats. As the population grew, they needed more electorates for the House of Representatives because the electorates were getting too large. They had to make more Senators to create space for more House of Representatives seats. We originally started with 6 Senators and they just kept growing and growing to make room for the House of Representatives. If they ever broke the 2 to 1 nexus in the Australian Constitution, they could bring the number of Senators down to 2 per state or 5 or 6 per state because it would not affect the House of Representatives. At the moment, they are locked in. The fact that they have decided that there are 12 and they will not change that provision in the Constitution does not mean the Northern Territory should be perpetually made a second-class state. That is the issue.

Mr PEARCE: Automatically get our 12 Senators.

Mr HATTON: We should. Under the Constitution, we have got to fight for that. That is what it amounts to and the point that Rick Setter was making also is that all justice says that we should have equal Senate representation. It may well be that, to achieve that, you may need to negotiate a phasing in of that on a time scale, not a population scale, of equal representation. If we went from 2 Senators to 12 Senators, they would have to find an extra 20 House of Representatives seats around Australia and that would cause a major disruption in the electorate boundaries in all the states where all those extra seats would go and that would affect the voting prospects of one party or the other. If you cause major disruptions in the Australian voting system, you will cause a ripple effect right around Australia. Maybe phasing in is politically the only rational answer.

Mr de SACHAN: At one time, we broke the nexus. The nexus does not mean 2 to 1. The nexus means we have got to ...

Mr HATTON: No, it is 2 to 1.

Mr de SACHAN: Maybe my memory is not as good as yours, but I reckon it's not 2 to 1.

Mr HATTON: The Constitution clearly sets it out. There shall be 2 House of Representatives seat for every Senate seat.

Mr de SACHAN: Yes, that might be what it says but, for some reason, and I cannot remember why, about 20 years ago we broke that nexus.

Mr HATTON: No, we did not.

Mr de SACHAN: Yes, we did. I can remember the election quite well and I am trying to think. The Liberals tried to break the nexus.

Mr HATTON: Tried to but never succeeded.

Mr de SACHAN: They didn't?

Mr HATTON: They tried last year. At the referendum last year, they tried to break it but they mixed it up with so many other things that you could not pick it out and deal with it.

Mr FIRMIN: I actually think that both of you are correct. The Constitution provides for one House of Representatives seat for up to 250 000 population. What happened - you are quite correct - there was a point where the number of House of Representatives members produced a ratio where, under the Constitution, there should be more Senators. There was some

fight about whether the Senate numbers should be increased from that proportion because the Constitution actually provided 6. Thus, the constitution in fact was in opposition to itself. There was a period where it was out of balance but there was an opinion in the courts that the number of 6 was incorrect because the proportional representation overrode that other system. They brought it in and they increased the number. I think it was done in 2 bites - up to 8 the first time and then to 12.

Mr de SACHAN: I do not forget many things politically but, for some reason, I have forgotten just what that was. That sounds pretty correct to me. I can remember the election. It was not a High Court decision. There was an election or a referendum on it. I remember that I was at the top end of Queensland at the time. We come up to what we can do about the Senate. It all depends on what parties ...

Mr HATTON: As you can see, there are no simple steps in any of these. There is no simple, clear cut answer whereby you can just click your fingers and you have got it. There is a lot of thinking through to be done.

To come back from those issues, you raised the issue of money.

Mr PEARCE: Right, how we would fund ourselves. How we would fund ourselves because there was a memorandum of understanding in the first place that has been whittled and chiselled away.

Mr HATTON: It officially closed last year.

Mr PEARCE: Oh, did it?

Mr HATTON: I love this question, I really do, because it gives me an opportunity to make an important point. I will ask you to think. We have in place now a parliament and elected representatives. We have in place a formed public administration, the public service, hospitals, schools, a police forces - all the public administration is in place. We have in place the judicial system and courts right through to the court of appeal. All the infrastructure of a state is in place. We have a taxing regime in line with the rest of Australia. The financing that we get from the Commonwealth, as of last year, is drawn from what is known as the Commonwealth states tax-sharing pool which is the same bucket of money from which the states get their money. Our share of that is calculated by the same body that calculates it for the states - the Grants Commission. It is done at the same time as it is done for the states, through the relativities review, and using exactly the same formulas and factor assessment as for the states. In other words, what we are getting from the Commonwealth is calculated exactly as if we were a state. There are no differences.

I will just explain that, in addition to that, we get a special payment shown as an electricity subsidy from the Commonwealth. However, Western Australia gets a special subsidy for the losses it made on a take-or-pay contract to the gas pipeline. New South Wales and Victoria get \$300m or \$400m a year subsidy for their railways. Those are special arrangements that are accommodated for in the Commonwealth states financing arrangements.

We do not have any special deals because we are a territory. We are today standing on our own feet as if we were a state. Col makes the point that we do not have the revenue-raising capacity. Some of the royalties, like the uranium royalties, bauxite royalties and other things are currently going straight to the Commonwealth. It redirects some of that money as a special payment to us. It would come directly to us with our proposals for statehood. However, because of the way the Grants Commission works that increases our revenue-raising capacity and decreases the amount of money the Commonwealth gives us. The net effect would be about zero and we would still be standing on about the same ground as we are on now.

Mr FIRMIN: But, it will dispel the myth that we are being supported at a far greater level than any other state. Then, you will actually see that we are returning quite considerable revenue.

Mr HATTON: But there is no financial bonanza at the end of the statehood rainbow. That is the point. And there is no financial disaster either. It is important to recognise that statehood is your constitutional rights, your rights as Australians.

Mr PEARCE: With money from the federal government, all the states will have ...(Indecipherable).

Mr HATTON: That is right.

Mr HATTON: On average, states get 60% of their money from the Commonwealth. During or just prior to the Second

World War, they reached an agreement that the Commonwealth would collect taxes on behalf of the states.

Mr de SACHAN: That was during the war.

Mr HATTON: Yes, 1942 actually.

Ms HARGRAVES: Do we have control over our own destiny by becoming a state? Do we have control of our resources and who we sell them to and how we control them - leave them in the ground or take them out or sell them or not sell them?

Mr HATTON: To the extent that the states have that control, we would have the same control. That is the proposal. Our argument is that uranium mining, for example, should be operated under the Northern Territory mining legislation, environmental legislation etc, administered from the Northern Territory royalties paid to the Northern Territory, but recognising that the Commonwealth government, as it has everywhere in Australia, still has the export licensing power. If it refuses to issue an export licence, we could still produce uranium but we could not sell it overseas. We could sell it to elsewhere in Australia but not overseas. There are those sorts of limitations.

The proposal in respect to Uluru and Kakadu are that they should be leased back to the Northern Territory Conservation Commission. To delve into those issues more deeply, the government produced 3 discussion booklets and there are more coming out. One is called, 'Land Matters on Statehood', and there are copies available. It deals with Aboriginal land and federal land generally that should be transferred to the Northern Territory, ways of handling the Aboriginal Land Rights Act situation in the transfer to the Northern Territory act and protections that Aboriginal people properly are seeking to ensure that they would not lose their land overnight. That is of real concern to the Aboriginal people. A third booklet deals with minerals and energy on statehood.

Those are options papers which have more detailed discussion. They are available. Please also take them for further reading. This other book that I have been quoting from discusses how you go about becoming a state and what sort of things have to be done to become a state. That gives the options for the grant of statehood and the different ways you go about it. I think we have done our homework and we can tell you how you can do this, that or something else. That is what have been doing for the last 3 years.

Mr PEARCE: Another thing that comes to my mind is that, if we become a state, will there be more or less restriction put on me as an individual than if I lived in a territory? My other question relates back to Territorians. There is a huge transient population in the Northern Territory who are tied in with public service. They come for a few years and then go back to wherever they came from. They spend 2 or 3 years here. How are you going to define a Territorian?

Mr HATTON: Firstly, I think that the historical situation of the 2- or 3-year visiting public servant has broken down a lot since self-government. We do not have transfers in and out. You will find that we have a high degree of stability and many public servants regard themselves justifiably as Territorians.

Mr PEARCE: I was not really picking on public servants.

Mr HATTON: But it is important.

Mr PEARCE: It is right throughout the mining industry. I was not really picking on public servants, but people who do come here. I do know this. They come to the Territory, make higher wages but they own a house in Perth or in Queensland or wherever and their ultimate goal is that, in the 3 or 4 or 5 years that they are going to be here, they will pay their land off. They are not in the Northern Territory. They are really ...

Mr HATTON: Visitors.

Mr PEARCE: ... transients.

Mr HATTON: I understand the people that you are talking about and the circumstances. I know what you are talking about and I think we all do but, in the end, the only thing that we can do is define who has the right to vote and who does not have the right to vote. At the moment, the provisions are in the Self-Government Act and that is expanded through an electoral act. One of the questions that we are asking is what should be written in the constitution about that. We are recommending that the clause that goes in there should be similar to the clause in the Self-Government Act clause. It gives

the basics about people who are eligible to vote - you must be an Australian citizen, you have to have certain residency status of 3 months or 6 months in the Northern Territory, and so on. Every adult who meets those criteria is eligible to vote by secret ballot. You put that into your constitution and also who is eligible to stand for election. Who is excluded? Maybe somebody who is an undischarged bankrupt should not be eligible to stand. If you are not an Australian citizen, you should not be eligible to stand, and so on.

Ms HARGRAVES: Or a person who owns property commercially in another state.

Mr HATTON: Well that is a question you would need to deal with. You have the right to put that into your constitution. A constitution defines those things. If you put it into the constitution, it is very stable and hard to change. For example, I think that it would be undesirable to put voting systems into the constitution because at different times people might want to have different voting systems. That is a matter that you should deal with by legislation, but within that framework. The constitution sets the foundations and the framework. It sets the rules around which the parliament is allowed to work. It sets the limits.

Mr FIRMIN: Ron, you raised 2 issues. The first was whether there would be any increase in restrictions on you as an individual as a result of statehood.

Mr PEARCE: Yes.

Mr FIRMIN: I do not believe there would be any change at all unless there were some restrictions written into the constitution. I cannot see that happening, to be quite honest, because one does not normally write a constitution that restricts the rights of individuals. Quite the reverse, it sets out your rights as an individuals and one would expect that that would reflect the attitudes of Territorians at the moment and would be similar to other states. In answer to your first question, I would say there would not be any increase in restrictions on you.

Steve touched on the public service turnover. He rightly says that there has been a marked change in the 2- or 3-year visitation by people from south since self-government in the Northern Territory. The Northern Territory Public service has stabilised enormously. The massive turnover that we used to see in the private sector - in banking, the insurance industry, the support industries, mining and fuel industries where they sent people to the Northern Territory for 18-month to 2-year periods - seems to have changed also. I am not saying that that has happened overall but, generally, there has been a change in that trend. People are now electing to stay longer.

The major area where there is turnover at the moment in the Territory is in the defence forces. However, with the sort of lifestyle that is now becoming apparent in the Northern Territory, you will find that many defence force personnel, when they are being asked to move and having served their 20 years, are electing to opt out of the service to stay in the Northern Territory. Thus, it is a matter of attitude about where you want to live that creates the environment for people to stay. I certainly would not like to see anything written into the constitution in respect of that matter, whether it be for voting purposes or for treatment commercially, as to whether you had been here 1 year, 2 year or 20 years. I think you will probably find there are many in this room today, like myself, who came to the Northern Territory in the first instance on probably a 1 or 1½ year posting to do a job. In my case, that was nearly 25 years ago. I fell in love with the place and I did not want to leave it. I think there are a lot of people in this room today who found the same sort of thing.

Mr SETTER: Can I just make a very brief comment, Ron, on your question about restrictions should we move to statehood. Currently, the situation is that we operate 99% under Northern Territory law which is put in place by the Legislative Assembly. That law is put forward, debated and then adopted by Territory people. It is most unlikely that, unless you have some government that goes right off the rails, any unreasonable restriction or law will be imposed on Territory people. There is some Commonwealth law that applies in the Northern Territory and probably the most well-known one would be the Land Rights Act which has quite a considerable effect here. However, generally speaking, there is no reason to think that there would be any additional restriction on people at all.

Mr PEARCE: What prompts my question on restriction is that I am at present fighting with a document simply to gain access to ride horses into Litchfield Park. The document is similar to the other very large documents that you have here and that have to be perused and gone over and put into place. I can understand the Conservation Commission's reluctance in going forward. However, we are in a business situation and they are in a guaranteed situation. Their wages continue every week whether the park is open or closed. I still have my mortgage payments to make and I still have to get up there. I have no access to the park at all. It might not be until very late in this year that I will even get an answer back as to

whether I can do this or not. The aims and objects of this document are for horseback riding in the park yet for me to get access to do the same now - and I have been waiting in this town for 3 years just to find out where the road went. It becomes a bit frustrating. I am talking about laws. The Conservation Commission is an entity to itself. I feel that there should be a little bit more input to looking after small businesses and outside operators who have to make their commitments. As far as I can see, the department and the commission are an entity to themselves and just go on their own merry way.

Mr SETTER: Ron, I accept what you say. The point I was making was that there will not be any change to that situation when we move to statehood.

Mr PEARCE: Right, I was trying to explain to you that I am still fighting with this document and I do not want any more restrictions.

Mr HATTON: It would not affect the Litchfield situation because that is under a Northern Territory government administrative unit but I guess the essential element is that, in some areas where at the moment the decision-making responsibilities lie with the Commonwealth government and are of a nature that would normally be dealt with by a state - in other words, they are not transferred powers yet - the difference would be the government which is setting the rules and regulations. It relates to the extent to which you have influence over the decision-making processes of that government. I think that you have far more influence over a state decision-making process than you do over a federal government decision-making process simply because it is smaller and is directly responsible to you. It is not a clear cut 1-plus-1-equals-2 situation. You have to make a value judgment on how significant it is. I think it is an important consideration, irrespective of who is in power at any particular time either federally or in the Northern Territory. What is important is your capacity to influence the decision-making of that body. There are no guarantees under any government that you are going to overcome frustrations. That is the reality of life. I just hope that you have a better chance of overcoming them the closer you are to that government.

Ms HARGRAVES: I would like to ask Wes a question. Can you fill us in on what is going to happen with land rights in relation to the new constitution that we are in the process of building up in consultation with your people whom you represent? If we put this constitution in place, will we have any more continuous land claims or will they be dealt with as the constitution is drawn up? Will it be set in place instead of going on and on and on over the years? Will the constitution look at that area and make it solid as to your people's claims on the land?

Mr LANHUPUY: Jackie, as you know, it has been a very long and drawn out situation in the Territory. I guess that is one of the main arguments the Territory government has been trying to put forward to the federal government in Canberra. There has been constant argument by the Chief Minister of the day. With respect to this constitution, I suppose what we are saying is that we would rather deal with land matters concerning the Territory at the Territory level so that at least we will be able to fix matters of concern within our communities among different sorts of people who have got land throughout the Northern Territory whether they be pastoralists, Aboriginal people and other people who hold properties in the Territory.

As Col Firmin said earlier, your views will be appreciated by the committee as will those of the Aboriginal people who make up 25% of the Territory's population. We want to look at how we should frame the constitution and whether people want the Land Rights Act as it exists in the federal legislation enshrined in the Territory constitution. Should we be given special recognition because of our prior ownership of Australia? Those sorts of aspects have got to be taken into account and the views you may stress to the committee, of course, will be taken into consideration.

At the convention which Steve spoke about earlier, we will be able to sit down and talk about the technicalities involved in formulating a policy that may have a consensus throughout the Territory as a whole. If the 25% of the Territory's population who are Aboriginal people are going to argue about the fact that they do not support the constitution or statehood, it is no use for us Territory politicians going out into the community and saying that we want a constitution. That is one of the reasons why we are going out and saying that it is an opportunity for people to express their views on matters affecting the mining industry, the pastoral industry and the interests groups like Aboriginal organisations throughout the Northern Territory. It is important to be able to sit down and face the facts of having to deal with a government that hopefully will make decisions that affect people in the Territory and cut that attachment that we have to Canberra. I personally am in support of having a constitution in the Territory and, hopefully, in the end when we gain statehood, it likely that we will achieve other things by discussing matters of concern to us on the ground. When we were at Hooker Creek, the people said that they do not trust the Territory government with land rights. That is the view that they

hold.

Mr HATTON: And that wasn't a party specific statement either, I can tell you. I said to them: 'What if Wes was Chief Minister?' They said that they still would not trust it.

Mr LANHUPUY: That is right. Thus, you have those sorts of views expressed. The important aspect is that we are starting to get people to talk about an issue which I believe important.

Ms HARGRAVES: Yes, there are issues that will have to be put into the Constitution such as that the claims must be finished or we let them go on or there is so much land or so little land. There are many things to be talked about.

Mr HATTON: One the questions that is asked is whether the principle of Aboriginal land rights should be entrenched constitutionally and, if so, to what extent it should be entrenched. There are a whole lot of different scenarios from there to there. It is not necessarily right to assume that the act as it exists now is perfect or that there are not things that the Aboriginal people might like to see changed in it. As you say, Jackie, my feeling is that in the non-Aboriginal community people do not object to the principle of Aboriginal land rights but they would like to know what the end picture is going to be.

Ms HARGRAVES: Where does it finish?

Mr HATTON: How we get through this fighting stage and get down to living side by side.

Ms HARGRAVES: Yes, living together.

Mr FIRMIN: It may not even come down to the point of when it might even finish in the sense of claims being made. It might be a better interaction between the groups as to how we all manage our land and how we react to each other and what things we can achieve together with the use of that land. That may be the end product of all these discussions. We do not know yet. It is too early.

Ms HARGRAVES: We should not have to use 2 constitutions to solve an argument. First of all, we are Australians and, secondly, we are Territorians.

Mr SETTER: We are all Australian first, Jackie.

Ms HARGRAVES: Yes, and that is really the constitution that we ...

Mr HATTON: We fit under that. We cannot do anything that is in conflict with the Australian Constitution. That sets the Australian framework and, within that framework, we can set our own rules.

Ms HARGRAVES: In your own house. Thank you, Wes.

Mr LANHUPUY: Like Steve said earlier, if there are any comments or submissions that you may wish to make to this committee, feel free to do so.

Ms HARGRAVES: I would like to see it discussed face to face.

Mr FIRMIN: That is why I raised it earlier because, in any white group that we have met with so far, no one has really wanted to raise it in the sense of putting forward his or her views on what we should be doing with respect to land rights.

Ms HARGRAVES: It is not a racial view. It is a living together view. We all live together and, if the bloke next door is getting more than you and more entitlements than you, then that will cause dissension. If we can iron it all out before we put it in our constitution, we will all know the rules that we live under.

Mr FIRMIN: That is right. That is why we are looking for views from all sides.

Mr de SACHAN: What Jackie's asked for is a finish to the whole thing, one way or another.

Ms HARGRAVES: It seems to be an ongoing niggle, niggle, niggle, niggle, but if it ...

Mr SETTER: There is a sunset clause in there now, isn't there?

Mr HATTON: No.

Mr LANHUPUY: I think the NT has been negotiated with the land council as to a stopping date to land claims, where it cannot go beyond.

Mr de SACHAN: I have something entirely different to raise, if you don't mind.

Mr HATTON: Yes.

Mr de SACHAN: I come from Victoria and often we think up things that are first in the world or first in Australia such as seat belt legislation and alcohol limits. Maybe we can come up with something new. We do not have to be behind. There is a thing called the right of recall. That means when a politician or a council is elected and does not perform reasonably well, and this often happens - and I am not talking about here but about Australia and the world - the people should have the right to recall them and have another election. There is nothing to stop us being the first body to bring this in. This could occur if something like 10% of the electorate signs a petition. I use '10%' because that is what the Arbitration Commission puts on the unions if they want a court controlled ballot. I am using the 10% but I don't care if it is 40% or 50%. There must be some way. Look, there was a Senator voted in in Tasmania who did not turn up to any meetings. He went up to the Gold Coast, started a grocer's shop and had his wife working. He was paid for 6 years without turning up for anything. That is the law. There should be some way of recalling such people. I do not mean the Governor in a state or the Governor-General in Australia, but there should be some right of recall. It happens here and everywhere. For years, you are paying for and putting up with someone who is incompetent.

Ms HARGRAVES: You have a vote of no confidence already in place.

Mr de SACHAN: You cannot get them out of parliament.

Mr HATTON: No.

Mr LANHUPUY: Once they are elected, they are in for their full term.

Mr de SACHAN: There is no way we can get rid of them. There is no right of recall here in Australia.

Mr FIRMIN: Harry, the situation that you spoke about with the Senator does not apply in the Northern Territory with respect to the locals. If a member of parliament fails to attend parliament for 3 consecutive sitting days without leave of absence being granted by the House, his appointment is automatically terminated.

Mr de SACHAN: Then he is no longer in parliament?

Mr FIRMIN: That is right.

Mr de SACHAN: I have never seen you do it with anyone.

Mr FIRMIN: We all turn up and work.

Mr HATTON: If we are sick, we send in a sick form.

Mr de SACHAN: Yes, I know all that. If you are sick. That is nothing. I want the people to be able to do something about it. I do not mean to leave it in the hands of politicians because they will probably all stick together. The people elected them.

Mr HATTON: This is the second time that the argument has been raised and I guess that, in the end, the community will have to make a decision whether it supports that or not. I mean that seriously.

Ms HARGRAVES: Put it down in your report.

Mr HATTON: This is the second time this week that the issue of having some procedure whereby the electorate can demand that the member face re-election in a by-election has been raised. There are arguments in favour of that,

but 10% - gosh, if you can't find 10% among hard-core party members to really cause trouble for the other side, you would have a real problem. If you were going to do it, you would need to have the numbers that are going to be real. Secondly, having done that, you will force a member perpetually to do things that are popular in his electorate, irrespective of the consequences or whether it is right or wrong. You would become a representative politician, a populist politician, and you will always avoid any hard decision.

Mr de SACHAN: I do not believe that.

Ms HARGRAVES: We have it now. For instance, I do not like Rick advocating that shops should have the right to sell liquor on a Sunday.

Mr SETTER: I am pleased that you do not live in my electorate, Jackie.

Mr LANHUPUY: I will give you a classic example which I think would happen in my case, in Arnhem. 35% of the people in my electorate are Aborigines. On an issue like land rights, a sensitive matter that causes concern, coming from my background, I would, in my case, support the majority of my electorate. What you are asking me to do is to put my job on the line to obey or go by the wishes of that 35%. It would place me in a very difficult position.

Mr de SACHAN: You are elected as a member of parliament. I am asking not only you but everybody at least to do a reasonable job. If you do not do a reasonable job, you should not be there. All that person is doing is taking up that seat.

Mr LANHUPUY: I was just trying to give you an example. That is all.

Mr FIRMIN: But every 4 years we get thrown out if we are not doing a good job, Harry.

Mr HATTON: The point that we are making is that that is the whole principle of having to face re-election.

Mr de SACHAN: How long?

Mr HATTON: In the fixed time frames. The purpose of the re-election is that, if a person is not doing his job, you can replace him. That is where parties may change their pre-selection of somebody or the electorate might vote somebody else in. That is what elections are about. You are saying that that the politician should be facing the continual potential for being taken to re-election at a moment's notice.

Mr de SACHAN: It would liven him up and keep him on his toes, yes.

Mr SETTER: You would have elections every month at horrendous cost to the taxpayer.

Mr HATTON: You are not going to liven him up, you are going to put him to sleep.

Mr de SACHAN: I have never heard one politician in any sphere of politics ever support that there should be a right of recall. They all claim, especially the Whitlam government, that once you are elected for a period, no matter how you perform, you should be in there for that period. That was his argument and his party's argument: once you are elected, you just sit on your behind and you are there for the duration. No politician agrees with the right of recall. This is just a move to keep them on their toes. I think it is a good idea. Other people, especially you people, do not agree with me. The 10% was simply a figure.

Mr HATTON: I would not even be frightened of that rule personally, I can tell you.

Mr de SACHAN: No, possibly you wouldn't, because you know your electors. If you think you can get back, and I have no doubt you can, why would you worry about it?

As I explained before, the 10% was the amount put on the unions by the Arbitration Commission to get a ballot. If you get 10% of the union, you will get a ballot. But, I am not interested in the 10%. I interested in the whole principle of the thing.

Mr HATTON: I understand that.

Mr de SACHAN: It could be 40% or 60% or any percentage that you wish, just as long the principle is there that, if

someone does not do his job or plays up, there is machinery there to replace him by someone who is more competent. That is all.

Ms HARGRAVES: I think the House does that itself. If someone is playing up, it can tell

Mr de SACHAN: I will tell you what, in my fairly long lifetime I have never seen anyone put out of parliament by the parliament. I am not saying that has not happened, but I just cannot recall such an occurrence, and I have been interested in politics since I was that high.

Mr HATTON: There are 2 possible reasons for that. The first is that no one has broken the rules to be thrown out.

Mr de SACHAN: You can't sit there and seriously tell me that.

Mr HATTON: Well, I can.

Mr de SACHAN: Do not give me that. What about that chap up in Queensland?

Mr HATTON: I have never heard of him. I do not know who he is.

Mr de SACHAN: Well that is right.

Mr HATTON: I also do not know whether the Senate has rules about attendance.

Ms de SACHAN: I did not think that you would be happy with it.

Mr HATTON: To be honest, I do not think it is in your interests.

Mr de SACHAN: It is in my interest. Yes.

Mr MARSHALL: You do not think it is constitutional?

Mr HATTON: No, you can write it into the constitution, but I do not think that it would be in your interests.

Mr FIRMIN: If it was taken along that route and it was as frivolous as it could tend to be, you would find that probably you could not afford to have the elections that would be fought each time.

Mr de SACHAN: No, you are misunderstanding the nature of this. ... (Indecipherable) ... As a matter of fact, it could be put in the hands of the returning officer. The returning officer, in theory, is more powerful than a politician. He is beyond suspicion, like Caesar's wife. It should be put in the hands of the state returning office and have nothing to do with the politicians whatsoever.

Mr HATTON: As a matter of interest, can I canvass the views of other people in the room.

Mr de SACHAN: Eh? I do not know.

Mr HATTON: That is what I am doing. I am canvassing the views of other people.

Mr MARSHALL: If this is going to happen to politicians, is it going to happen to public servants and ministers and people from all walks of life?

Mr HATTON: The ministers are politicians.

Mr MARSHALL: What about heads of departments?

Mr HATTON: Ministers are more vulnerable than MLAs.

UNIDENTIFIED: Chief Ministers.

Ms HARGRAVES: In your instance, Steve, you were moved aside because possibly they did not think you were doing what you should have been doing. Thus, it is already in place. It can happen.

Mr HATTON: But I am still the member for Nightcliff.

Ms HARGRAVES: Yes. It can still happen. If somebody is not doing what the group think he should be doing, there can be a movement such as happened in your case. It has happened before.

Mr FIRMIN: You have a perfect example here in your own electorate with the previous sitting member having his own problems. In fact, his party turned around and said that he could not represent it any longer. It did not put him up for pre-selection.

Mr de SACHAN: He went for a few years though and there was nothing we could do about it. There was no machinery for us to do anything and you people would not do anything about it. His own party would not do anything about it. It was a real joke that. You people know that as well as I do.

Mr HATTON: You re-elected him.

Mr de SACHAN: Eh?

Mr HATTON: You re-elected him. Kicked Goff Letts out.

Mr de SACHAN: I didn't.

Mr FIRMIN: The electorate did.

Mr de SACHAN: It is a long story that.

Mr HATTON: Do not blame us.

Mr FIRMIN: Is there a different matter that someone wants to raise? I think we have probably canvassed this one.

Mr SHOOBRIDGE: I would like to raise the subject of government involvement in private industry. I believe that there are certain instances where government goes into private industry to the detriment of private industry that is already operating in that area. I guess what I would like to see is some sort of criteria that the government should have to fulfil before it goes in. Indeed, when it does go in, there should be criteria in relation to its plans and expenditure, both proposed and actual.

Mr HATTON: Yes. I guess you could argue QANTAS does that. QANTAS, Commonwealth Bank, Telecom.

Mr SHOOBRIDGE: I am thinking more of home matters.

Mr HATTON: But they are examples of businesses in fact.

Mr SHOOBRIDGE: For example, we established a business here and, 3 weeks after we were given the government licence after a great expenditure, Manton Dam was closed. Possibly, this has the potential to send us bankrupt. I do not believe it will. In fact, we are trying to be very positive about it, but it has divided the market. We cannot compete with the government dollar.

Mr FIRMIN: David, you could use the same example, for instance, with a large trucking company setting itself up to transport goods backwards and forwards through the Northern Territory and, the next day, the government announces that it is going to build a railway and the railway comes into force within the next 12 months. Unfortunately, these sort of things will happen.

Ms HARGRAVES: But you are first putting an expression of interest out before you build the railway and the people have an opportunity to say that they do not want it. In that instance, nobody had a chance to make any objection.

Mr HATTON: Which way is it going in direct competition with you? Because it is a water sport facility?

Mr SHOOBRIDGE: For example, before we purchased the property, we asked the government about the infrastructure. We were told there was no money to do it and now a couple of million dollars has been spent in putting a nice new sealed highway right into Manton. There are no residents living there. There are no businesses there. At the same time, we had

17 000-odd visitors through last year. Is that treating our 17 000 visitors like second-class citizens?

Mr HATTON: You are looking for road access?

Mr SHOOBRIDGE: We are looking for road access but I think it is more general than that. I did not want to be specific on one issue.

Mr HATTON: I was aware that your mind was thinking about the Lake Bennett situation.

Mr SHOOBRIDGE: I guess that there are other instances of smaller operators, not the Warren Andersons of this world, who have put every dollar they have got into it. We cannot compete against the government and I just wonder whether there should not be some sort of criteria. For example, when I was researching to start our business, we should have been able to find out that these things were on and the extent of the government's intentions. In fact, we were told that it would be 10 to 15 years away.

Mr FIRMIN: I think we all thought the same thing, David. We had some considerable problems. I raised the Manton Dam recreation lake proposal when I was an alderman on the city council back in 1976. In fact, I attempted to get the Manton Dam proposals up then. We had considerable problems with the health aspects and we fought for several years to try to change that. It wasn't really until Manton Dam became a residual repository of water rather than a primary water source for Darwin that we were able to convince people that it was capable of being used for recreation, and it did come up very quickly.

Mr SETTER: We were pushing the same issue back at about that time, 1976, but nevertheless your point is taken.

Mr SHOOBRIDGE: We raised it with the Darwin Sailing Club and it said it did not need any inland water.

Mr SETTER: When was that?

Mr SHOOBRIDGE: About 18 months ago.

Mr SETTER: Oh, right. I am talking about back in the mid to late 1970s. It certainly was fairly high on their agenda in those days.

Mr SHOOBRIDGE: I agree but, if the intentions were known then, I might not have gone the way I have gone.

Mr SETTER: I think that is a fair enough point.

Mr SHOOBRIDGE: But, I am trying to generalise in so far as I believe that there should be some sort of criteria, perhaps like you have environmental impact studies if you are going to create a new park. There could be some sort of a commercial impact study. I think that is the point I want to make.

Mr SETTER: It is important to generalise in these matters because we are talking about a broad-based constitution as opposed to specific issues.

Mr HATTON: It also raises the quite conflicting situation that faces the community. Do you allow motorised water sports on Lake Bennett?

Mr SHOOBRIDGE: No, because we only built it back to non-powered standards. Let me state that, if Manton was to be used purely for powered craft, we would have no objection whatsoever.

Mr HATTON: Okay, fine. I understood that the motorised people were very heavily lobbying - the water skiers and the motor sports people.

Ms HARGRAVES: 10 people.

Mr HATTON: I was lobbied a lot and so were many other ministers and MLAs. We were being lobbied to make Manton Dam available for that. We could not do that until we had drained it and got the logs and stumps and Lord knows what else out of it. One of the premises was to provide informal access for picnickers and water skiers etc. The longer term proposal was to have the potential to develop areas near Manton Dam as a site for future significant tourist resort development to

attract some investment in the tourist industry in the Top End. That was, if you like, the thinking process in the development of that basic resource at Manton Dam. I have been out of it now for the last 9 months, and I am not using that as an excuse. I am also not dodging the fact that I was part of the decision-making for that construction of Manton Dam. If you like, I am putting the thinking processes that led to it. In fact, in relation the question of whether it would impact on you, our advice was that it would not.

Mr de SACHAN: Was this by a competent person?

Mr HATTON: We thought it was at the time.

Ms HARGRAVES: Ask us.

Mr HATTON: I understood that, on a number of occasions, people talked to you about it, Dave.

Mr SHOOBRIDGE: Can I say that a feasibility study was done. Now I have read that study and I do not propose to discuss it because we were given it in confidence. However, the consultants never once approached us - not once.

Mr HATTON: Well, that is news to me.

Mr SHOOBRIDGE: If they did, they did not identify themselves.

Mr FIRMIN: David, the only quick point I wanted to make was that the same sort of thing has been said to us with respect to operators of sailing craft at Mindil and Fannie Bay beaches in regard to the Sailing Club teaching people to sail. They all felt that the same thing would happen. They felt that was an insider trading situation and that it would reflect on their commercial activity. The reverse of that has occurred. I hope that, in the future, we can say the same thing happened with you. By opening up the opportunities to a wider range of people, we have expanded the market. In expanding the market, it then overflows into those commercial areas at a greater rate than would have occurred in the first place. I hope the same thing happens to you. That is all I wanted to say.

Mr SHOOBRIDGE: I must comment that, although I raised a specific matter, my remarks were made in relation to a future general context.

Mr HATTON: It might be a good time to put down on record some of the concerns at the decision-making process. The issue is government becoming involved in providing a community facility where private enterprise has provided a similar community facility which, naturally, it must charge for the use of. That will always be a source of conflict. We must recognise that because governments are faced with the competing pressure of the community demand for access to facilities. On the other side, there is no reason why the government would want to spend money on an area that has already been adequately catered for by the private sector. Inevitably, when the private sector is doing that, there is another area that is not being catered for and the pressure is on the government to do it. Where they intermesh is where the conflict arises, isn't it? I do not know how you solve that. I really do not. I know the problem. They are competing pressures but how do you say to the citizenry: 'We are not going to allow you to have access to that potential facility because we do not want to adversely affect 1 or 2 or 3 businesses'. I understand that.

Mr SHOOBRIDGE: In the same context, if I can give you another example, a couple of months I bought a hydraulic winch. I was told the price had gone from something like \$480 up to \$800. Why? Because the Commonwealth government had put on a protective tariff because, all of sudden, there was a Victorian company that had said that it wasn't producing it but it had the potential to produce it. I guess there is also that problem too.

Mr HATTON: You will not find a protectionist here.

Ms HARGRAVES: Could we put things like that in our constitution? That the government of the day, whoever it may be, should liaise with the people more before it makes decisions affecting businesses, because without business we have got nothing?

Mr HATTON: I do not know, Jackie. It is an issue you can wrestle with. There is nothing to prevent you doing it, if I can put it that way. As a total community, you can address any of those sorts of issues and write those sort of rules in. When you are doing it, you need to work out whether that is the appropriate mechanism or whether what you are really arguing for is some sort of legislation.

Ms HARGRAVES: Well the government brings in the legislation, doesn't it?

Mr HATTON: Yes, but governments react to lobbying pressure. They brought in environmental impact statements and the whole lot of other things as a result of lobbying from the community. You need to consider whether it is appropriate for a constitution, whether it is something you want dealt with through some other mechanism or whether you want what they call some sort of appeal mechanism.

Ms HARGRAVES: That would be better. I think it also covers what Harry was feeling about it too. An area of appeal.

Mr HATTON: Whom do I turn to when I am not happy with what the government is doing - that sort of thing?

Ms HARGRAVES: Yes. In any regard. An appeal. We just do not want to be told that is it.

Mr HATTON: An administrative decisions review system.

Mr de SACHAN: I can't see that that has got much to do with the constitution, but I repeatedly asked our local member what was going on with Manton Dam and I never heard a peep from him. As a matter of fact, I still do not know. At that stage, there was all the row about the reservoirs and that is another source of water. I tried to find out why it is not used as the town water.

Mr HATTON: That was the argument that Water Resources gave the government for many years. Every time somebody asked why Manton Dam was not used, the answer was that it was a backup system for water research. When we brought all the water units together and started to get some real answers out of the system, we found that in fact 80% of the water from Manton Dam goes over the top of the wall every year. It is so shallow that it has very little holding capacity and it is absolutely useless for that purpose.

Ms HARGRAVES: I think that the ... (Indecipherable) ...would have been better there.

Mr HATTON: That is another option to look at but our advice is that there are better ways of doing it. That does have the potential to be an excellent community facility and, more importantly, the surrounds there have excellent potential for development for the tourist industry, to create market development for tourism in the Top End. That was also a lobbying pressure that we were under from the industry, you might remember. Everything was seen to be going to central Australia and nothing in the Top End.

Ms HARGRAVES: These are the fears that come to people overall. This is why people have got to have some input and some liaison with the government of the day about these things that happen because they affect our lives as well as our businesses. For a government to go ahead and just do something because they have been lobbied by one other group and damn the rest of them, that is when it creates bad feeling among the people.

Mr HATTON: The community had been talking for many years about Manton Dam being opened up for recreation.

Ms HARGRAVES: And then knocked it back. But, I am not talking about that. It is the principle of it.

Mr HATTON: The only reason they were knocking it back is because people were saying that it has to be kept pristine for drinking water. When you find out that that is a nonsense, which it was ...

Mr de SACHAN: Is it used in the system now, for Darwin?

Mr HATTON: No, it never was.

Mr MARSHALL: If Darwin River Dam failed, what other sources of water have we got?

Mr FIRMIN: There are several different ones but the McMinns Bore system is the immediate backup for Darwin at the moment. In fact, it is utilised concurrently with Darwin River Dam all the time. I suppose that, in an emergency, we could probably fall back on Manton Dam if everything else failed. But Manton Dam would not be sufficient by itself to maintain the Darwin reticulation area.

Mr HATTON: If Darwin River Dam failed ...

Mr FIRMIN: It would be a catastrophe like Cyclone Tracy.

Mr MARSHALL: Why shouldn't we get on with building one of our new dams. Have that in place and then put Manton Dam in as a recreation area.

Mr FIRMIN: But even so, I could go one step further than Steve. With respect to Manton Dam, for example, I did some studies in England a couple of years ago. I had a look at the sort of water usage in England. They use reservoirs in England for recreational purposes but they drink from them all the time. They have no other source of water. There a place very close to the city of London that is the major area where they water ski. It is the water skiing championship area for central Europe. They have a swimming baths in it. It is the actual water that is consumed every day.

Mr SETTER: They have done the same thing with the lake at Mt Isa for years.

Mr FIRMIN: The whole question in the original sense was a bit of a nonsense.

Mr HATTON: Can we please come back to the constitution? We are getting from it. This is suppose to be a bipartisan select committee not a government ...

Mr de SACHAN: Mr Chairman, would you excuse us please. We must go.

Mr HATTON: Thank you very much for coming. Are there any other issues that people would like to raise with us on the constitution? Then perhaps I would take the opportunity to thank you for coming. I hope we have been able to deal with those issues. If you would like to talk about other matters informally with us afterwards, we would be happy to do so. If you would like one or two of us to come back at different times to talk on the issues when you have organised a group, we would be happy to do that.