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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Governance arrangements for the Indian Ocean territories

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COCOS ISLANDS

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**JOINT STANDING COMMITTEE ON
NATIONAL CAPITAL AND EXTERNAL TERRITORIES**

Wednesday, 1 February 2006

Members: Senator Lightfoot (*Chairman*), Senator Crossin (*Deputy Chair*), Senators Carr, Hogg, Joyce and Stott Despoja and Mr Causley, Ms Annette Ellis, Mr Neville, Ms Panopoulos, Mr Secker and Mr Snowdon

Members in attendance: Senators Carr, Crossin, Joyce and Lightfoot and Mr Causley, Mr Secker and Mr Snowdon

Terms of reference for the inquiry:

To inquire into and report on current and future governance arrangements for the Indian Ocean territories, with particular reference to:

- a. accountability and transparency of decision-making in relation to the Indian Ocean Territories;
- b. the role of the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands;
- c. aspirations of the residents of Christmas Island and Cocos (Keeling) Islands for more representative governance arrangements;
- d. the link between more effective governance and improved economic sustainability for the Indian Ocean Territories;
- e. the operation of Western Australian applied laws;
- f. community service delivery including the effectiveness of service delivery agreements with the Western Australian Government; and
- g. proposals for reform of governance arrangements.

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Committee met at 8.31 am

CHAIRMAN (Senator Lightfoot)—I declare open this public hearing of the Joint Standing Committee on the National Capital and External Territories on this important inquiry into the current and future governance arrangements for the Indian Ocean territories. This is the second hearing of the inquiry, the committee having collected evidence at a hearing on Christmas Island on Monday. The committee also intends to conduct further hearings in Perth and in Canberra with respect to the same subjects. This inquiry was referred to the committee by the Senate on 11 May 2005. At the conclusion of the inquiry the committee will table its findings, conclusions and recommendations in the parliament in a report which will be made publicly available to those on Christmas and Cocos (Keeling) Islands. The committee will normally authorise submissions for publication and they will be placed on the committee's website. To date the committee has received 13 submissions from interested parties. If you would like further details about the inquiry please ask any of the secretariat staff present at the hearing for assistance.

[8.44 am]

PIRUS, Mr Balmut, Deputy President, Shire of Cocos (Keeling) Islands

PRICE, Mr Bill, Chief Executive Officer, Shire of Cocos (Keeling) Islands

CHAIRMAN—I welcome the representatives of the Cocos (Keeling) Islands Shire Council to give evidence. I remind witnesses that, although the committee does not require you to give evidence under oath, the hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee has received a submission from the shire council, which we have numbered 5. Are there any corrections or amendments you would like to make to your submission?

Mr Pirus—No.

CHAIRMAN —Do you wish to make an opening statement?

Mr Price—Yes. We would like to officially welcome the committee to our island paradise. We were glad you had the benefit of a public holiday yesterday to check out some of things we have to offer, particularly the tourist infrastructure. We hoped you enjoyed your day. I would like to put in an apology for our shire president, Ron Grant, who is on the mainland at present. Perhaps I can have his apology noted formally.

Mr Pirus—I would like to welcome the committee. I hope you enjoy your stay here. Hopefully we will get something out of these meetings.

CHAIRMAN —I will now ask the committee to direct some questions to you.

Senator CROSSIN—Mr Price, did you want to say anything further as an opening statement or are you happy for us to go straight to questions?

Mr Price—As a council we submitted a fairly extensive submission, a 90-page submission, at the time. We have not got much of a verbal submission. We are happy to answer questions, but we were just going to skip over the executive summary comments and make a few notes on that. That may come out through the question time.

Senator CROSSIN—If you could quickly summarise that or highlight the main points you want the committee to focus on.

Mr Price—I refer you to pages 8 to 11 of the council's submission—that is, the executive summary. I have only a few brief comments. Item 1 is entitled 'Accountability and transparency of decision-making in relation to the Indian Ocean Territories'. The local government authority is regulated by the Western Australian Local Government Act for Cocos (Keeling) Islands and also as a council we are regulated by the satisfaction of our electors. We need to perform; the

electors have a democratic right to elect councillors to represent them accordingly. DOTARS carries out both state type duties and Commonwealth duties.

Item 2 relates to the role of the shire and both councils. We feel that local government is extremely important to the local community. It is a government that is probably most relevant to the community because it is so close and hands on. We are very keen to see its capacity expanded and promoted to take on additional responsibilities. We feel the role of the local government is extremely important to the local community.

Item 3 is the main point from the council. There needs to be a fairly extensive education program conducted for the local community in a Malay format as well, because they are the majority of our population. They need to be educated on what the options are of different types of governance and what the implications would be of those various types of government options. That is the main point that we tried to submit. It is fairly difficult for the community to go to a referendum when they really do not know what the choices are and what the implications are going to be.

Item 4 is about the link between more effective governance and economic development and sustainability. As a local community, we are very keen to nurture regional cooperation with the Christmas Island council and to work on our economic development options there. I think we need to do it jointly and with more inter-island cooperation in that area. We feel that the operation of Western Australian applied laws are quite relevant to us. At the moment we are quite happy with the majority of the legislation that is applied here, although we feel that there may need to be more consultation with the local community to tailor the legislation to accommodate the local community a little bit more, taking into consideration their culture and things like that.

Council are very happy with the current arrangements for the community service delivery agreements, the SDAs, that are provided. We are quite satisfied that the majority are very relevant to us. We have an opportunity as a council through negotiation with DOTARS to review those SDAs that are relevant to us. If we feel they are not relevant we can throw that SDA away.

I would like to give an example. DOTARS have recently signed a sport and recreation SDA and are about to sign a tourism SDA. That has come about through communication between the local community, the council and DOTARS, because we feel they are two important issues that need addressing locally. We feel the SDAs are a fairly effective method of providing the state type services here. The main point is that the community needs to be educated on the options and their implications prior to any referendum or anything being discussed on governance issues or any change.

Senator CROSSIN—What sorts of activities does the shire council undertake here on Home and West Islands?

Mr Price—We are very typical of the standard Western Australian local government. We have the same responsibilities and our act is the same as the Western Australian local government legislation. Typically we are responsible for rates, roads and rubbish . We have additional responsibility with housing. Home Island provides Homes West type housing—that is, public housing. Currently, 50 per cent of the houses are on a long-term lease arrangement and that is

similar to private ownership and responsibility. So our responsibility in that area is reducing. We have all the normal local government responsibilities.

Senator CROSSIN—Are you responsible for water and sewerage?

Mr Price—No, not at all.

Senator CROSSIN—Not the airport management?

Mr Price—No.

Senator CROSSIN—Are they two areas that you would like to look after or could manage?

Mr Price—I think we would not be capable of that at the moment. We need to concentrate on our local government areas first. We have only been a true local government for the last 14 years so there are some areas we probably need to tidy up first before we take on those state type areas. At the moment we would not have the capacity. I am not saying that in the future that is not an area we could look at once our capacity has been improved.

Senator CROSSIN—Turning to the SDAs with Western Australia: you made an interesting comment about the recent sport and recreation SDA. On Christmas Island we heard evidence that the shire council was not aware it was being negotiated, that it was never consulted, that it never saw it. It was signed off by the federal government sight unseen on Christmas Island. Did you see the SDA before it was signed?

Mr Price—Yes. Christmas Island have had their new recreation centre built over the last two or three years—

Senator CROSSIN—Which, you might say, is why they are very surprised that they had not seen that SDA. There are implications in that and their management of the recreation centre that they knew nothing about it. It surprises me that DOTARS have spoken to you but not the Christmas Island shire.

Mr Price—I am not saying how DOTARS should do their job but there possibly should have been an SDA done prior to the construction of the Christmas Island recreation centre. That is why we have been pushing for an SDA with the department, who have the professional advice and capacity, to come out and do a study on what are the requirements locally and on what would the community like as far as sport and recreation facilities are concerned. We feel that there is a need for sport and recreation facilities here but we have to consider the scale, the location—because we have two communities—and whether there needs to be duplication. Probably the best department to carry out that investigation is the Department of Sport and Recreation. We have been talking closely with the Perth DOTARS office and we are very pleased—

Senator CROSSIN—The SDA on sport and recreation may well be more geared towards Cocos Islands' needs rather than Christmas Islands' needs.

Mr Price—It is geared for our investigation but it is also for future management advice as well. I guess Christmas is already at that stage, but I cannot speak for Christmas.

Senator CROSSIN—I notice that your submission does not advocate or wholly support the current federal government's policy position, which is to integrate the islands into Western Australia and for them to be managed by Western Australia. I do not see in your submission that that is where the shire wants to go.

Mr Price—We are trying to stay very neutral. Council's position is that the community need to make that decision. We feel it is community's decision to make. Council is in the same position as the community in that we really do not know what the implications would be if we came under the Western Australian state. We understand that the islands are heavily subsidised in a lot of areas. Is that still going to be the case under a Western Australian arrangement? With electoral reform, we do not know what representation we could have up here. As a community and as a council we are sitting fairly neutral at the moment. We need to be educated on the options and the implications.

Senator CROSSIN—My understanding is that the Western Australian government has not been approached nor does it support the current federal government's policy position. Are you suggesting that if it ever came to that stage people would need to be well informed and make a decision themselves rather than have something forced upon them. Is that right?

Mr Price—Absolutely. We feel that we cannot have a referendum unless we are aware of what the implications are. We have correspondence from former Premier Geoff Gallop advising that Western Australia would not consider the Indian Ocean territories coming under Western Australia unless it was a decision by the local community and they wanted that. We understand that there would have to be a Western Australian referendum also to accept the territories as part of Western Australia. At the moment we have correspondence from Geoff Gallop saying that they would not even consider it unless the territories were pushing for that.

CHAIRMAN—Would you please let the committee know what you have full or part responsibility for, or no responsibility for, of the following. Senator Crossin mentioned water. What part do you play in the delivery of water?

Mr Price—None at all. Utilities such as power and water are provided by the Water Corporation. They have the SDA arrangement with DOTARS.

CHAIRMAN—Electricity?

Mr Price—No; Water Corporation.

CHAIRMAN—Roads and footpaths?

Mr Price—Council.

CHAIRMAN—Wharf?

Mr Price—CI Ports.

CHAIRMAN—The ferry?

Mr Price—Cocos Islands Cooperative Society Ltd.

CHAIRMAN—The maintenance of government infrastructure on both islands?

Mr Price—Civilian contractors.

CHAIRMAN—Do you do any of that?

Mr Price—Not really, no.

CHAIRMAN—The airport?

Mr Price—No; that is Forte Airport Management.

CHAIRMAN—Which of those areas that I have mentioned would you feel competent to maintain or service? Could the shire handle the maintenance, distribution and reticulation of the water?

Mr Price—I think that the council needs a couple more years to get our local government responsibilities tidied up. We would still need to access expertise from the mainland. There are tradesmen locally now, the same people that are employed by the Water Corporation, for example, who could carry out that task, but you still need an overseer manager.

CHAIRMAN—It seems to me there could be a transfer of that responsibility to the shire.

Mr Price—In the future.

CHAIRMAN—Would electricity be the same? At some stage in the future could there be a transfer of the responsible running of both those utilities?

Mr Price—Possibly in the future.

CHAIRMAN—Roads and footpaths you already do. Who picks up the cost of maintenance of the wharf?

Mr Price—DOTARS would via the contract with CI Ports.

CHAIRMAN—Is the ferry the same?

Mr Price—Through the Cooperative, yes.

CHAIRMAN—There are many local authorities that own their own airports and run them highly successfully, very successfully. I will mention two; the City of Kalgoorlie and one or two if not more airports in the Pilbara are run at a very good profit. Notwithstanding the strategic

value of the airport for the Commonwealth, do you see the shire being able to pick up the running and the maintenance of the airport?

Mr Price—In the future we could probably carry out those responsibilities with some assistance from an expert in that field, but the financial maintenance—

CHAIRMAN —Would you need some expertise?

Mr Price—Yes.

CHAIRMAN —Could it be done given the expertise?

Mr Price—It could be done attracting some of the expertise, yes.

CHAIRMAN—Sometimes these operations are not a matter of whether the Commonwealth or the state government can make a profit, sometimes both of those areas of government are quite happy for less of a loss. If you demonstrate that you could maintain and run the airport at even less of a loss than it is running, if it is running at a loss, is that not a position that you should consider or could consider?

Mr Price—Long term plan. I think our responsibility is local government. Once that has been tidied up and we are fulfilling all of the requirements that we need to there, we could look at other areas. Again we would have to access some expertise from the mainland in certain areas. We could not accept financial responsibility for any of those because we just do not have the capacity. They are always going to have to be subsidised services. Regarding the airport, it is probably 10 years overdue for having a major upgrade for whatever reason. As a council we do not have the capacity to maintain that type of infrastructure.

CHAIRMAN—What is your gross budget 2005-06? How many people does the shire employ?

Mr Price—Our budget is around the \$3 million mark. It is a little bit higher this year because we have a capital project, a community resource centre project valued at around \$1 million. I have 27 employees full-time equivalent.

CHAIRMAN—Part time?

Mr Price—It ranges. There are full-time equivalent employees and we just take casuals on as required.

CHAIRMAN—27 full-time equivalent.

Mr Price—Yes.

Mr CAUSLEY—I was going to go down a similar track. We heard evidence at Christmas Island about self determination and I think there is something in your submission on a similar line. Try as I might I cannot see how 2,000 people could do that, I think that is probably difficult. Having said that I also see the problems with being amalgamated with Western Australia

because, from all the advice we have, it would seem that that is quite a complicated process as well. Having had the experience as a state minister in New South Wales for a number of years and administering Lord Howe Island, with what Senator Lightfoot has said, would it not be better if you went down the track of saying that instead of the state providing some of these services which the Commonwealth is paying for, that in fact your local government might be able to provide some of those services and be paid by the Commonwealth? At present it is about \$80 million a year for the Indian Ocean territories. We all know what state bureaucracies are like and sometimes there is waste there and there may be some efficiencies found by going down that track.

Mr Price—As far as advocating self-governance, we have not got that in our submission. We need to give the community that option if they want that, but we as a council have not advocated that. In a write-up in *About The House* magazine, we were misquoted as saying that the Cocos Islands were pushing for self-governance and that was not the case. I do not know where that quote came from. That may have been council's position in the past. I can agree that there could be some wastage with the state providing some of the services up here. Again, council may be able to administer that locally and it probably would be an ideal situation, but I still think that is probably a long-term plan to do that. There would need to be a lot of expertise in those certain areas brought up from the mainland. It would be the same as teachers being brought up from Western Australia and Water Corporation are Western Australians, et cetera, so I guess it is no different. Instead of dealing with a state department you could be dealing with an island council or cooperative or suchlike. I think it could be an option there.

Mr CAUSLEY—For a referendum to succeed in Western Australia it is obvious the state would want to see that the present subsidies remain, because the state would not underwrite the cost of running the territories. Another problem is law; you would still have to have some law and maybe you need state law there.

Senator CARR—Do you know how much the Commonwealth is spending in the delivery of services to Cocos? Do you have any idea of that figure?

Mr Price—No we do not. We set up a five-year plan for the council entitled Vision 2010 and that is council's strategic plan for the next five years. It was compiled last year. Following up to that, council are currently compiling a document Island 2010 which is trying to bring in all the council information but also to itemise all the state type services that are provided and by whom, and also the budgets and the financial figures for all the different areas. We are trying to coordinate the state type services with the local government services and look at the budget that is being applied, to see if there are savings or if we could work things better. We are currently going through that and we have asked DOTARS for the information on what budgets are in certain areas.

Senator CARR—I am not surprised that you cannot quote a figure. The point that you are making about the lack of accountability for DOTARS operations is reflected in the fact that they do not appear to advertise how much money is actually spent very effectively. We do not seem to be able to find a consolidated figure anywhere. Is anyone from DOTARS permanently on the islands?

Mr Price—Not any more. There is one DOTARS employee who handles the housing on West Island.

Senator CARR—One person?

Mr Price—One direct DOTARS person specific for the housing. Everyone else is on Christmas now or in Perth.

Senator CARR—So, if there are issues that you want to raise concerning the delivery of services which are funded by the Commonwealth, how do you contact the department?

Mr Price—We feel we have excellent communication lines with DOTARS. To be quite honest, as a community we are not unhappy that DOTARS' presence is off island. We feel that has given the council the opportunity to represent the community. Instead of the little brother on the island, it is now more the figurehead of the island. Our communication lines particularly with the Perth office are very open. If we have any concerns we have contact with Christmas, Perth or Canberra.

Senator CARR—Would it be better if there were more people here?

Mr Price—As I have said we feel that it is better that they are not here, as long as we have the communication channels with them in Perth and/or Christmas.

Senator CARR—Do you think that the Commonwealth funded services could employ more local people?
Mr Price—Yes. One of our main concerns is unemployment on the islands and we would certainly like it if locals were employed in those areas. Sometimes it comes back to the expertise, whether there are qualifications that apply to the particular job that is at hand.

Senator CARR—This is the point about the relationship between Commonwealth funded services and the level of economic development in the Indian Ocean territories. The point has been made to us on Christmas that you could get a more effective use of public money if there was more local management, bringing people in, encouraging economic development on the islands with people actually stationed here. Do you think that is possible? Could you actually get an improvement in the level of service provision and more economic activity on the islands if there were more people actually employed directly here?

Mr Price—I do not know whether I have a good answer that—if we could take it on board and maybe get back to that one.

Senator CARR—In the executive summary of your submission, you talk about old resolutions, back two years now, about the need for an elected assembly that is working with Christmas and having a local government authority responsible for local matters. Do you think it would be possible to get a better direct relationship with Canberra if there was an assembly process in train? Is that still your position?

Mr Price—Yes. The initial submission we put in years ago was for an assembly arrangement but I think council is possibly looking more at just a regional type council arrangement with Christmas Island, where there is representation of council, community, economic development,

certain areas. We have not really addressed the make-up of that committee, but a good cross-representation of the community. We feel there is a need for a regional council so that we have a bit more clout with Canberra.

Senator CARR—The committee has to make recommendations to the government about which is the best way to go forward. In my short time dealing with these questions, I am yet to find anyone who supports the integration into Western Australia. You have indicated that people may not be aware of the implications of it. Do you think it could strengthen the relationships with Canberra? Is it possible to actually get an improvement in those relationships and in what ways could that be done?

Mr Price—I think we can. I feel that we have had inroads with communications with council in the last 12 months. The communication lines have opened up, and a bit of that has come about with the removal of DOTARS from the islands. The council is more the figurehead and we are being consulted on a lot more issues. The other advantage that we have here is that council is a trustee of six-sevenths of the land, so if there are any issues relating to Cocos you have to be consulted; that may not be the case for Christmas Island. There is quite a strong consultation process now. We would encourage that a regional council be set up. My personal opinion, not council opinion, is that we probably have a pretty good arrangement with the Commonwealth now and there is a possibility of opening those channels and remaining on that. My experience in Western Australia is that there is a lot of concentration on the high population areas and not a lot of concentration on small population rural areas. It is my personal opinion that it could be the same case for out there. Again, whether Western Australia have the capacity to fund—it is always probably going to be a Commonwealth responsibility anyway.

Senator CARR—We have a submission here from a former CEO who was drawing attention to the way in which some of these issues have been deal with locally. He talks about heritage questions in terms of some of the property that the Commonwealth currently administers and has put to us that there has been little consultation about the use of those facilities. Would you agree with that? Have you seen Mr Jarvis' submission?

Mr Price—Yes I have. I cannot speak for Mr Jarvis but I understand that in the past the communication lines were not as open as they currently are. I can only speak for our experience now, my experience now.

Senator CARR—He talks about the question of goats. I know it is always a dangerous topic when you are talking about these sorts of things, but do you think that there has been effective consultation about goats and the arrangement that DOTARS made for the treatment of goats?

Mr Price—DOTARS did not actually make arrangements, they provided permission in their particular area—AQIS permission. There is a requirement that permission be granted by council to import any animal onto the island. That was not done by the proponents. Although they may have had permission in other areas, they never had council permission to bring them here. We had a local law to stop that importation. It was council prerogative. Coming back to land, the proponents did not have the land to put the goats on anyway; that was council land. They intended putting it on a horticultural block on which we have a lease, and our lease is for horticultural purposes not for animal husbandry.

Senator CARR—Was that an example where communication could have been improved?

Mr Price—Is it the responsibility of DOTARS to see that the council permission was obtained? I do not know. I think it is really the responsibility of the proponent.

Senator CARR—How do you think the government has related to the council in regard to the use of the quarantine station?

Mr Price—Is that for the current arrangements, for the elephants?

Senator CARR—There was series of advertisements placed for instance, regarding the use of the quarantine station. Were you consulted about those?

Mr Price—The elephant arrangement was prior to me being here. I understand that council were aware that the quarantine station was again going to be used for that purpose. Council were keen to see the use of the quarantine station rather than it falling down and not being used in the last four, five or six years.

Senator CARR—Mr Jarvis speaks of the advertisements for the expression of interest and the use of the quarantine station as a tourist facility. Are you aware of those?

Mr Price—For the quarantine station land, yes that is right. Since that time the Commonwealth have come back, DOTARS have come back, and we are now part of the process for that tourist facility. They have the opportunity to either use the Commonwealth land and/or some of the trust land, if there is a preferred site and the possibility of having a resort here.

Mr SNOWDON—I am aware of the history of this in a fair amount of detail. I think what Senator Carr is alluding to is that there has been a change in relationship. Six or seven years ago the Commonwealth was not considering any involvement of the local government body, the shire, with the quarantine station. They were going to give the quarantine station away. Representations were made about the quarantine station being transferred to the community for the community's use; they were rejected. Now I understand that that has changed and that the Commonwealth is now agreeing to transfer a significant portion of the quarantine station to the council as shire land. Is that correct?

Mr Price—We are still in negotiations. We have not had anything formal. We have been negotiating to have portions, in conjunction with DIMIA, they are keen for some of it. Council are keen on the four houses that are there, the feed sheds for a council depot and the main building for economic development purposes.

Mr SNOWDON—I have just explained to Senator Carr that a temporary migration facility was here when our Sri Lankan friends walked up the street.

Senator CARR—Do DIMIA still want to make use of the facility?

Mr Price—Yes. DIMIA are keen to access the units and the crib room facility. They have an area surveyed off for that and I guess they are having negotiations with AQIS now.

Mr SNOWDON—Did they explain whether or not they needed it in lieu of the Christmas Island facility?

Mr Price—I think it is just for an emergency facility in case another boat turned up here. It is not a full-time one, just the 24 or 48 hour turnaround facility.

Mr SNOWDON—I think this is a matter which ought to be taken up with DIMIA elsewhere, Mr Chair, because we have a history of DIMIA having their dibs on blocks of land around the country and not using them. We will talk to them about that. Can I just go back to the issue of consultation. What is your knowledge of what is happening at Rumah Baru?

Mr Price—Rumah Baru was a plan put together by some consultants probably three or four years ago at a fairly hefty cost about an inland port facility to assist in stevedoring, and also for the ferry services and recreational boating. It was estimated to cost \$20 million or something to that scale.

Mr SNOWDON—Money was appropriated for that purpose, it was in the budget.

Mr Price—It was quite hefty. That apparently has been shelved. There is a need to reconstruct a new West Island jetty because the West Island jetty has only limited years and it is probably past its use by date. DOTARS' proposal now is to construct a new West Island jetty adjacent to the existing one, a much better concrete facility that can handle a large crane. They are talking about buying two new container barges. At the moment there is an old container barge here that can handle one container at a time. There is a dumb barge that needs to be decommissioned; it goes out and collects 15 or 20 containers off the ship, comes back to Home Island and then one container at a time is shuttled to West Island and landed on the beach. It is a fairly primitive arrangement. They consulted the community a couple of months ago, their plan is to buy two new barges that can handle four full containers and six empty containers, so fairly significantly bigger. They are going to decommission the dumb barge and construct a new jetty on West Island for the stevedoring. The Rumah Baru facility has apparently been shelved.

Mr SNOWDON—What was the process by which it was shelved?

Mr Price—My understanding is that it was just unaffordable.

Mr SNOWDON—The point I am trying to make here is that there was no effective consultation or negotiation with the community about that project?

Mr Price—About shelving it, no.

Mr SNOWDON—What is happening with the issue of the hovercraft?

Mr Price—Currently there is a ferry service which is contracted to the cooperative. They called for an expression of interest from alternative suppliers of a ferry contract and a submission was received for a hovercraft arrangement between the islands. That proponent had to go through the EPA process and apparently that is about where it is at now. DOTARS still have not granted a contract to that person, but if you go through all the process and everything else they will need to decide whether they are going to award the contract to them. Obviously

that is going to have implications to local employment, the current local business, the cooperative. That is probably one where not a lot of negotiation was done prior to accepting the hovercraft proposal.

Mr SNOWDON—The point I am trying to make is the one you have just made. There are significant areas of policy judgment and decision making which are made elsewhere without negotiating with the community.

Mr Price—Yes.

Mr SNOWDON—In the case of the ferry it is a significant issue for the community because they have two vessels run by the cooperative and contracted by the Commonwealth. The proposal is that they will go to another form of ferry service which could effectively mean that those people currently employed on island may no longer have jobs. Is that correct?

Mr Price—Yes, that is correct.

Mr SNOWDON—You have a vision for economic development or you are developing a vision for economic development.

Mr Price—Council's vision is for local government but the local EDA has their own five-year strategic plan.

Mr SNOWDON—What sort of proposals does that strategic plan envisage?

Mr Price—I cannot comment on that, I am not a representative on the EDA. I would prefer an EDA representative to comment on that.

Mr SNOWDON—What economic activity does that council consider appropriate that it might foster on its land?

Mr Price—There have been a few proposals; the two tourist resorts and a trepang harvesting arrangement in the lagoon. Apparently that has been approved through the Department of Fisheries and by the council and EDA. There is the possibility of the noni fruit, coconut oil, all of those have had a fair bit of investigation. Again, it comes back to the economics and whether that can be further brokered. One of the things which is fairly important to those proposals is access to the quarantine station facility as a laboratory or a facility for some of those projects.

Mr SNOWDON—I am not asking you to comment on the EDA proposals, what discussions has the shire entered into with DOTARS about the possible use of those resources for that purpose?

Mr Price—I think it is not so much the EDA; they have not had the negotiations directly with DOTARS but the council have. The council would be managers. We are trying to get access to that facility to then lease to one of the developers.

Mr SNOWDON—What has been DOTARS' response to that?

Mr Price—It has been good, but I think the elephant saga has held it back a bit because that has been drawing on for two years now. They really cannot make decisions on it until its current use is finished with.

Mr SNOWDON—I will ask you a couple of questions which again impact on the community, you may not want to comment on them, but I am thinking about the air services. When the contract for the air services was renewed, what formal process was entered into with the shire and the community about the renewal of the contract?

Mr Price—That is prior to my time so I am unable to answer that.

Mr SNOWDON—What formal process of discussion, consultation and negotiation took place with the community about the signing of the renewal of the contract for the air services to the island?

Mr Pirus—I am sure there is correspondence or newsletters that go around but there was no public hearing or public meetings held on Home Island. There was no community consultation or anything like that, just basically an advertisement.

Mr SNOWDON—I will just ask one more question about consultation. Bill, you may not have been around at this point and Balmut may or may not want to comment. The Commonwealth has a policy of incorporating the territories into Western Australia; what discussion, negotiation or consultation took place with this community about that proposal?

Mr Price—I believe none.

Mr SNOWDON—I am trying to paint a picture here because my colleagues, apart from Trish, have not had the opportunity to visit the islands or discuss these issues with the community before. It is important that we get on the record some of the recent history so that people can put in context this inquiry. That is why I am asking those questions, I am not trying to be difficult.

Senator CARR—I greatly appreciate the answers you have given. If the Commonwealth has direct responsibility, the question of its accountability is something with which this committee has to be vitally concerned. If the Commonwealth is trying to avoid its responsibility by moving matters off to another state, it is something that we have to explore very carefully. Our main concern is the capacity to actually improve the services for Australian citizens and residents given the Commonwealth's legal obligations. That is the reason we are asking these questions.

Senator JOYCE—You had a problem with water on this island, did you not?

Mr Price—Until today.

Senator JOYCE—We are happy to have fixed that up today. At this point in time do you feel comfortable or uncomfortable with the arrangement? You are politically governed from the Northern Territory, you are administered by Western Australia and you are funded by the Commonwealth. In your statement you say that you are aware that that probably engenders a

little bit more financing, more money flows this way, maybe you receive a little bit more attention than possibly a regional town. Would that be a fair statement?

Mr Price—Yes.

Senator JOYCE—With the service delivery arrangements, how are you going with training local people, getting local people from especially Home Island here to become trainee technicians and in jobs like that? How is that progressing?

Mr Price—I will use the Water Corporation who undertake the utility provision as an example. Half the employees for the Water Corporation would be from Home Island so there is expertise, they have had the traineeships with an electrical or plumbing trade. That was heavily watered back last year. The Water Corporation also used to carry out a lot of asset services responsibilities, building maintenance, private contract work. DOTARS reviewed that, and found that they should only be providing services of the three utilities and not that other type of work. Last year Water Corporation actually let quite a few staff go because of that. There was a bit of a local impact. We were hoping that the people who were let go could go in as private contractors, but we are in that transient period—whether they have licences or authority to do that. They are qualified tradesmen but it is uncertain whether they have the contractor certificate as well. There is a bit of a transition period there. There is a local component at Forte Airport Management at the airport, although the main managers are off island and have been in the past. There is the encouragement that there needs to be and as there should be—a local component of employment.

Senator JOYCE—The Cocos Islands and the Christmas Island are 900 kilometres away from each other. Do you think that you can effectively coordinate aspirations? They are two completely different island cultures with two completely different geographies. Do you feel a nexus; do feel you would be able to effectively engage in a common arrangement with Christmas Island?

Mr Price—Not on all occasions because we are quite different from each other. We are trying to open channels in areas like tourism, for example. We are trying to market our tourism as a joint thing but as two different experiences. Christmas Island can offer ecotourism with their rainforests and wildlife whereas we have a different experience, more the tropical island, beach, relaxed type of environment. We have some eco with our lagoon and turtles and things like that. We are quite unique. They are largely economically driven with their mine, they have a different economic base from the community here, so there are differences there. There are some areas where we could work together and some areas that we would never be able to agree upon.

Senator JOYCE—You talked about the horticultural block, is that correct? What sort of role is the council involved in trying to develop that?

Mr Price—It is trust land, so council is a trustee for the trust land. As we have identified in our vision document, a large portion of West Island is available for economic development reasons. Virtually everything out of the town side towards West Island jetty that is council land is available for economic development reasons. The horticulture block was a Commonwealth project initially but has since been made available by lease to any proponent who wanted to go in there for horticulture reasons. It has been operating for a number of years. We would like to

see that develop. Again, the capacity for council or a proponent to put in a lot of infrastructure is a problem because our soil type is very ordinary and we have a lot of pests.

Senator JOYCE—What sorts of vegetables are you growing and what sort of production are you getting?

Mr Price—There are fruit trees, bananas, pawpaw, et cetera. Most of the growing is intensive through hydroponics, lettuces and tomatoes. The person in there now is compiling a report, we will have it at the end of this week, on what is possible and what the problems are as far as pests, soil type, acidity and everything else are concerned. We will have a document later this week about that.

Senator JOYCE—Do you think you would ever be self-sufficient in vegetables on the island?

Mr Price—We would like to but there would need to be an injection of funds. It would be fairly major to get a project up and running.

Senator JOYCE—You believe the sooner the quarantine station is effective and running again the better; would that be a fair statement?

Mr Price—As a quarantine station?

Senator JOYCE—Whatever. As a quarantine station, a DIMIA station, an elephant resting station or whatever they had in mind.

Mr Price—I think that there are quite a few dollars of infrastructure there just going to waste. It was let go very badly over the last few years. Someone should be using it. They are quite impressive buildings and it seems a waste of everyone's money for it to just rot to the ground.

Senator JOYCE—Is there a definite interest by the community to see that up and running again?

Mr Price—Yes, in some form. We have no real preference as long as it is being utilised.

Senator JOYCE—How much would the hovercraft cost?

Mr Price—I could not tell you that.

Senator JOYCE—Basically your preference is for the current arrangement rather than incorporation in Western Australia?

Mr Price—My personal preference or council's position?

Senator JOYCE—Council's position.

Mr Price—Council's position is that it is a community decision to be made but prior to them making a decision they have to be fully informed.

Senator JOYCE—In summary it is a greater educational process to go forward from here and an inconclusive position at this stage?

Mr Price—Yes.

Mr SNOWDON—Can I go back to the issue of contracting. What is the nature of the Commonwealth tendering process on the islands? Do they have a local preference clause?

Mr Price—DOTARS are using local contractors for all the work on the housing management on the other side. Some expertise may be contracted off island—for example, the wind turbines are a classic example. They would have been accessed off island.

Mr SNOWDON—There are local contracts let for particular purposes, I understand that. But if a significantly large contract were let, say for Rumah Baru—I accept that may not be a contract which is won by the community—as in some parts of Australia, the contract could have specifics which say that unless you employ and train X number of people you do not get the job. Does that sort of thing happen here?

Mr Price—I am unsure about that. It is probably unlikely.

Mr SNOWDON—When you talk about what people might see in the future in terms of governance, your submission refers to a number of different models that could be contemplated. You quote from the statements made by both Ron Grant and John Clunies-Ross in 2003 about an Indian Ocean assembly, which meant there would be an assembly working in conjunction with the two local shire authorities, who would carry out their functions as they currently do. Is that what was being proposed?

Mr Price—That was from the previous one.

Mr SNOWDON—When you talk about consultation and education, are you just talking about the proposal that the Commonwealth has put or are you talking about a range of proposals being put and allowing the community to make an informed decision?

Mr Price—Formal proposals.

CHAIRMAN—Has there been anything said this morning or discussed this morning to which you would like to add, clarify or amplify?

Mr Pirus—Our CEO has basically covered what the council has been discussing and the statements in Vision 2010. I would like to add something in relation to employment or apprenticeships for the Cocos (Keeling) Islands. Apprenticeships or traineeships or the education that we like to pass onto our school leavers or young people of the islands seem to be very down at the moment compared to previous years. In the old days when Asset Services ran the department of water or mechanics, plumbing and electricians, we used to have at least five apprentices at one time going through a traineeship. People that are doing the jobs now like

Bentley Malka or Dolman Yaderie all qualified after an apprenticeship. I would like to push apprenticeships or traineeships for the school kids now, so that in five or 10 years we will have people like them who will run the services. That is the only thing where I can see that we need to do more to help the economics of the islands.

CHAIRMAN—When I was here a couple of years ago there appeared to be a reluctance among families, particularly on Home Island, to send their children off for employment on the mainland. Does that reluctance, perceived or otherwise, still exist? If the children obtained a better education by going to the mainland, is there anything that you see as inhibiting them from going to the mainland to obtain those employment prospects?

Mr Pirus—This is not a personal thing but I know in the community there are divisions. Some parents would love their kids to study on the mainland and some want them to stay and study or do a traineeship on the island; that is the choice of parents. Whether the way people do it now is successful or not successful is just depending on the parents' decision. Personally I think it is better to send them out because there are more opportunities, more choices, more education from which to choose. We have to have options on the island and also on the mainland. We cannot say everyone has to stay and study here; we have to have the options of whether people want to send their kids out or stay here. At the same time, where people want to continue education on the mainland they can do it. Some might say, 'I might have to do an apprenticeship or training on the island.' So we have to have a choice. It is important to push strongly in that area so we know that the young people are going to have jobs or be successful in the future.

CHAIRMAN—Going back to your statement about sending the children away because of the better prospects, is that a view that is shared by a majority of islanders?

Mr Pirus—Probably not. My background is that I studied on the mainland and I have no problem with that. I can see there is a problem at the moment because I have a sister who has daughters and sons studying at Perth at the moment. The problem they have is financial support. They have to pay about \$100 rent to their cousins or someone that the kids are staying with and they cannot afford it. In the old days the government subsidised that. In the old days we could go out to study on the mainland and our parents only paid half of what a lot of people have to pay. At the moment that is also another area where people saying that if they want to send their kids out there they have to have money to actually educate their kids. Otherwise it is very hard to survive.

CHAIRMAN—If it was made easier by the federal government such as if there was some monetary assistance, some subsidy given, to send the children offshore to do tertiary study, whether it was university or TAFE level or whether it was through an apprenticeship, would that particular incentive result in more children being sent to the mainland?

Mr Pirus—I think it would contribute more to people sending their kids to study on the mainland to get better options and a better education and all of that. I certainly feel that if you go out there you not only experience education but there are other lives that the kids can learn about, being able to associate with other people or other kids. A lot of parents are also reluctant to send them out because they think that they will not come back to the islands because there are no jobs here or no opportunities.

CHAIRMAN—Is that a real worry amongst many people who reside on the islands, that once their children go away and see the bright lights, that they will not come back?

Mr Pirus—Yes, a lot of parents do have a concern about that.

CHAIRMAN—It is a big worry and a big concern.

Mr Pirus—It is a big worry because if we cannot see any future or any jobs available, those kids just stay at home. It is a big decision for them.

CHAIRMAN—I empathise with the parents because I was brought up in a small isolated area and once I was called up for national service I never wanted to go back and I did not go back.

Thank you very much for the contribution you have made this morning. We appreciate your time. If there are any other matters on which we might need additional information the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you may make some editorial corrections. Hansard may wish to clarify some details with you before you leave. Thank you for your attendance today.

On behalf of the committee I would like to offer an opportunity to anyone who has come here today to give some evidence and talk to us about your problems. If you can direct them towards some area where the government could assist, that would be fine. If not and you merely want to get something off your chest you will find us very patient indeed. Is there anyone who wants to say a few words?

[9.42 am]

JAMES, Mr Ashley, Facility Manager, Cyclone Shelter, Airport Terminal, West Island

Mr James—I have been on West Island for three or four years now. We have always been able to play golf there, but just recently we have heard that with the airport security we no longer have the right to go and play golf whenever we like. This worries me for my own concern and also the concern of the tourists who we try to attract here. What means do we have to try and combat this situation?

CHAIRMAN—What hours are you inhibited or stopped from playing golf? Are they subject to planes landing and taking off?

Mr James—They are saying we cannot play golf all the time, even when a plane is not landing. We cannot cross the airstrip.

CHAIRMAN—Does that mean that the shire may have to look at re-establishing some of the—how many holes do you miss out on by not crossing the airport?

Mr James—We have about seven holes on the other side of the airstrip.

CHAIRMAN—Is it an 18-hole course?

Mr James—No it is only a nine-hole.

CHAIRMAN—A nine-hole and you have only two holes to play with, is that right?

Mr James—Yes. Actually there is only one hole and the other half comes back across the runway. We have a little par three on this side in front of the golf club.

CHAIRMAN—I suppose somebody has assessed that you go over to the other side and stay there permanently rather than crossing and at least use—

Mr James—At this stage we have our golf club on this side of the runway and half the course is on the other side of the runway.

Mr CAUSLEY—What sorts of planes or transport is coming through here that is a security risk?

Mr James—I do not know.

Mr SNOWDON—The planes are not the security risk, the people outside are deemed the security risk, that is why they are kept out.

Mr CAUSLEY—But if they are a terrorist they have to have something to attack. What are they likely to attack?

Mr James—I do not know. There are days when a plane is not even landing.

Mr CAUSLEY—We are probably a risk while we are here.

Senator CROSSIN—There are actually days when there are no planes scheduled at all, is that correct?

Mr James—That is right.

Senator CROSSIN—You get planes in how many days a week?

Mr James—Two days a week, scheduled.

Senator JOYCE—It would be fair to say that if someone was motivated, the fact that they cannot play golf is not going to stop them. Thinking about the practicalities of it, if they think somebody on the golf course is liable to sabotage something—I do not know what they would have in mind—it would stand to reason that, if that was really their motivation, they probably would not go out there with a golf caddy. They could just walk out in the middle of the night. There is nothing stopping you. There is no fence.

Mr SNOWDON—Can I suggest that we, on behalf of Ashley and the other members of the golf club, might take this matter up formally with CASA?

[9.46 am]

JAMES, Mrs Kylie, Manager, Cocos Club, Airport Terminal, West Island

Mrs James—Along with Ashley, my husband, we currently manage the Cocos Club which is the West Island Cyclone Shelter. In relation to reassigning asset allocation, we have heard and in the shire's Vision 2010 they have spoken about the West Island Cyclone Shelter becoming a shire asset—it is currently a Commonwealth building. The club is funded to manage the cyclone shelter. We would like to find out whether it is an option for the community or the club to possibly purchase the building for community use to continue as it does as a club, as opposed to going to the shire. The reason is that there are different needs and wants in both communities. The Home Island community has different needs and wants from the West Island community. The club currently has the best liquor licence on island. Because the club is responsible for all major events on island, it is really important that we do not lose the fact that it is community run and does a lot of community project works. We need to be able to keep that going for the community. It is a fabulous place for tourists, it is the hub of the island and it is really important that we, as a club committee and management, have some direction about what DOTARS' aspirations for the building are. From my understanding they are actually talking about off-loading the facility to the shire.

CHAIRMAN—We will make those inquiries and come back to you with an answer as soon as we can. My advice is do not hold your breath, but we will do whatever we can.

[9.49 am]

PRICE, Mr Bill, Chief Executive Officer, Shire of Cocos (Keeling) Islands

Senator CROSSIN—Do you have any update on where discussions are with the club?

Mr Price—All asset transfers have been stalled because I do not have a person in that position to actually handle that at the moment. The cyclone shelter is just one of many that council need to consider—whether they wish or do not wish to accept responsibility for. As a council we have not actually spoken at any length at all whether we do or do not want any of the assets.

Mr SNOWDON—Would it be possible for you to provide us with a list of the assets they are proposing to be transferred?

Mr Price—The ones for negotiation, yes.

Mr SNOWDON—Who owns the old government building where the telecentre is?

Mr Price—That is Commonwealth. It is one of the ones on the asset list.

Mr SNOWDON—I understand that recently they have set rents. Have those rents been set with any consideration or consultation with the users?

Mr Price—No. They use a consultant from Perth, Jones Lang LaSalle. They are responsible for the Commonwealth assets on West Island and all the rents are set at what they determine to be market rentals. They are fairly high.

Mr SNOWDON—Have those decisions been taken off island?

Mr Price—Yes.

Mr SNOWDON—Was there any consultation or discussion with the shire or anyone else?

Mr Price—No.

Mr SNOWDON—Can you tell us what the telecentre does?

Mr Price—It is a typical telecentre of mainland Western Australia or what they call transaction centres.

Mr SNOWDON—Is it a community facility?

Mr Price—It is a community facility.

Mr SNOWDON—Is it profit making?

Mr Price—No.

Mr SNOWDON—Can you tell me what the rent that they have been asked to pay is?

Mr Price—I could not tell you for the telecentre. The council pay \$5,000 for probably a 30 square metre office.

Mr SNOWDON—I have had a conversation with someone on the island about this particular question and they have told me that, if they are charged the rent that has been indicated they are going to be charged, then the telecentre will not be able to operate. If that were to happen, what would be the impact on the community?

Mr Price—We would not be happy about that at all. It is a good community asset and it needs to be there.

Mr SNOWDON—Can I suggest that we seek advice from DOTARS as to how they intend to deal with these sorts of issues and how they have come to set these rents at market rates without having consideration of what these properties are used for?

CHAIRMAN—The secretary will come back to you, Mr Price, with the answers. We assume that you will distribute those answers then to the other people who have sought information here today.

Mr SECKER—When I look out that window, I see a solar heater. I am not sure how many there are on the island, and I commend the fact that there might be several more, but I have not noticed any rainwater tanks. A building like this could probably collect a couple of million litres a year if not more with your rainfall and you have water shortages. I cannot see any water tanks on the houses around the place that would provide employment in putting them up—for plumbers, apprentices, all those things that you are talking about—but also conserving water. What is happening there?

Mr Price—All 100 houses here have a 4,500 litre water tank, but it is six of one and half a dozen of the other here in that we are reliant on the water lenses. We can either catch it off the buildings, which is a problem if you see how intense our downfalls are, gutters are not that successful, or you can whack it straight into a tank. The same water goes straight into our water lens. You are sitting on our water lens now. I do not know the percentages of wastage, but we need the water actually to hit through the centre of the island and that is our existing water lens anyway. Admittedly a couple of the commercial buildings probably could have a water tank for reticulation purposes, but every house has a 4,500 litre rainwater tank.

I would like some bigger capacity water tanks on some of the council buildings, but this leads to one of the issues I want to bring up—our sea freight. At the moment we pay \$425 a cubic metre in sea freight, which is double Christmas Island. It is certainly stifling development up here. It would take us a squillion dollars to bring in rainwater tanks, given how much cubic metre areas they take up. Those are some of the immediate problems we have and why you probably do not see a lot of nice poly ones on some of the commercial buildings.

Mr SNOWDON—How much does a container cost?

Mr Price—Nearly \$10,000.

CHAIRMAN—Is there anybody else who would like to make a statement this morning?

Mr Price—I have a couple of issues I would like to address. There are some on-island issues that we would like to bring up. Airport security is under the Aviation Transport Security Act and regulations which is actually administered by DOTARS and the Minister for Transport and Regional Services. There needs to be a shutdown period for plane landings, which is obvious, and we are happy with that. That used to be the case. They have the lights on two hours before and two hours after a plane. That is what we would like to revert to. With this new act because it is a jet airport, it is 24/7 shutdown, you are not allowed anywhere near it without an ASIC. That is where it is affecting the golfers and tourists. We average two planes a week, so we feel that is a little bit over the top and there needs to be consideration for the local community in that area.

The sea freight is a real issue for the community. It is becoming enormously expensive. We also have the added cost of \$25 customs fee per consignment. Even if you buy one article from Bunnings it is \$25 and then 50 articles from somewhere else it is \$25 dollars. Every supplier has an additional \$25.

Mr SNOWDON—Who charges that?

Mr Price—Customs.

Mr SNOWDON—Not the freight forward, not the consolidator, but Customs?

Mr Price—The consolidator charges it. Whether he has to hand it on, I do not know. He probably has to hand it on.

Mr SNOWDON—Who is the consolidator?

Mr Price—Zentner Shipping. We feel that something needs to be looked at similar to the airline where the Commonwealth have decided who the airline provider is. We believe there needs to be some investigation into the sea freight, whether there could be some healthy competition or a tender let over several years. The cost is stifling a lot of development.

Employment has already been addressed. We have 60 plus per cent unemployment here. We are very keen to look at some initiatives or work for the dole schemes that are worth while to the community benefit and particularly to the younger people, who just have nothing to go to.

Wearing my tourism hat—I am the chair for tourist commission—we have written a letter, along with the Christmas Island Tourism Association. Currently the Commonwealth underwrite 120 of the National Jet Systems flights that come here. We have requested consideration of the possibility of underwriting about 20 more for tourism purposes.

CHAIRMAN—From whom did you request that?

Mr Price—We have sent that directly to DOTARS.

CHAIRMAN—Can we have a copy of that letter, if it is not confidential?

Mr Price—No, it is not confidential at all. The problem we have for Cocos is that at the moment the NJS plane has 60 or 65 seats. There is a large component of a contract that is going to Christmas Island at the moment for this DIMIA facility and they are taking up a lot of the seats. It is probably not affecting Christmas Island. They may be losing tourist numbers but that has been offset by their contract numbers for their local economy. We are missing out on tourist seats because they cannot get on the plane and there is a particular bottleneck between the islands. The other thing we cannot get here is group bookings unless you book six months in advance. With the Bali problems there are a lot of windsurfers, a lot of tourists who want 10 or 15 seats as a package deal, or even a few families, but you cannot book 15 seats on a NJS flight without booking six months in advance. As I have said, the Commonwealth underwrite 120 flights and I think last year the Commonwealth had to pay very minimal money for the flights that did not pay for themselves. If there is a possibility of getting a few extra Saturday flights, or as Christmas Island are putting, or contractors going on a specific Saturday flight just for contractors, that would leave our tourism seats free. We are working quite extensively trying to market the islands, tourism is one of our biggest economic industries, but we are restricted by the number of bums in seats on the plane. That is one of our issues.

Mr SNOWDON—What about flights north? We hear that SilkAir are flying a weekly flight to Singapore, which may or may not last depending on the take-up. How do you link a SilkAir flight to Cocos?

Mr Price—One of the biggest problems with the NJS flights is that they are inter island. That really restricts how many people they can pick up or take back to Perth and that is where it is bottlenecking. We are really not going to have that Silk Air access if that particular part of the flight is already full.

Mr SNOWDON—Some years ago there was suggestion of a commuter plane being stationed on Christmas Island and doing regular commutes, a 19- or 20-seater. Does that idea still have currency or does it not have currency?

Mr Price—It has not been discussed at council level. I do not know if it has been discussed by the economic development association or via the community. I know that bums on seats is the problem at the Tourism Association. We have good evidence from island bound tourists, operators on the island and Christmas Island Travel, where they have had all the inquires—people want to book and they cannot accommodate. We are missing out on dollars.

CHAIRMAN—Thank you for your contribution and attendance here today.

Proceedings suspended from 10.03 am to 11.27 am

[11.27 am]

CLUNIES-ROSS, Mr John George, Private capacity

CHAIRMAN—Welcome. I remind you that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of parliament and warrants the same respect as the proceedings of parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Is it your wish to table your submission?

Mr Clunies-Ross—I have a written submission. I would like to read it through because there are probably some questions you would need to ask.

CHAIRMAN—There being no objection, please proceed.

Mr Clunies-Ross—The issues raised by this inquiry, and also many apparent difficulties in government functions, are symptoms of a systemic problem in the governance of the external territories. It is almost impossible to separate the threads of this inquiry. I will try to address the points raised, but it might not be in the most direct manner. My viewpoint will be mostly from a Cocos Islander's angle, though much of it will be pertinent to Christmas Island.

Looking back, Australia took on the administration of both Christmas and Cocos Islands under differing circumstances. This is mainly a matter of international circumstance and reflects international differences of administration and not many of the issues in common. The most pivotal difference is that Cocos was declared a chapter XI territory under the UN charter prior to being handed over to Australia by the UK. Christmas Island has never had this recognition and Australia has resisted any moves in the direction of declaring Christmas Island a chapter XI territory, though it plainly meets all criteria.

The UK was the most prolific declarer of chapter XI territories and remains to this day the largest administrator of such territories. Many states that had non self-governing territories did not declare them. Australia did not declare Christmas Island for political reasons. There are many areas internationally that should have been declared chapter XI territories but, due to low political principals and conflicting self-interest, have remained undeclared. Just because it has not been declared does not mean it ain't so.

Both the International Court of Justice and Inter-American Commission on Human Rights of the Organisation of American States have ruled on cases in a way that supports the view that the principle of self-determination also has the legal status of erga omnes. The term means 'flowing to all'. It is a default 'flowing to' the Christmas Island community, as it is remote, non-self-governing and has unique cultural differences—all prerequisites for declaration as a chapter XI territory.

Australia, after much hand wringing, followed part 1 of the covenant of economic, social and cultural rights, allowing the UN to visit Cocos. For clarity I reproduce it here:

Article 1:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

I forgot to underline 'conformity' but the concept here is that Australia entered freely into an agreement with the UN to take the territory on and part of that agreement is in conforming with the provisions of the charter of the United Nations. It was growing opinion expressed and quoted in Senate papers that self-determination had risen from a pious hope devoid of legal substance to an international legal right. The UN 1960 declaration of independence to colonial countries and peoples, and following the 1966 covenant on human rights, underlined that self-determination was now a right.

Under this advice and under growing international opinion, Australia allowed a plebiscite for Cocos Islands. This was monitored by the UN. A UN representative declared there was fair and reasonable indication of the Cocos Islanders' wishes. The Commonwealth had lobbied hard for Cocos Islanders to vote for integration, promising new housing and appointing a full-time PR officer. The result was almost unanimous: the islands voted for integration. There were some minor faults in the process, the first being the offer of new housing if integration was successful; the second was the limitation of the process to integration or free association with Australia. No other states were allowed to be an option, though this is clearly within the rights of the territory.

Since the time of the plebiscite, the committee of 24—that is, the committee for self-determination of small countries—has seen that education is pivotal to the self-determination process and has identified this as an issue in the 'nascent' Pacific Island states. With hindsight this was also a major issue in our plebiscite. Current thinking on decolonisation is evolving and reflects a changing world political climate and rising education. More weight is now being put on the aspirations of the residents. 1990 was the decade of decolonisation, but there remain many non self-governing territories.

The committee of 24 declared 2000 the second decade of decolonisation, calling for a meeting of representative governments and citizens in the Canouan Islands within St Vincent and the Grenadines. The meeting was to identify steps needed to advance the decolonisation process and the UN appear to want to increase the speed and spread. This is now running parallel to what we are discussing here.

The chairman of this meeting of the special committee said the millennium declaration and the two international decades that are preceded by a long legislative authority for the realisation of decolonisation adopted a series of resolutions by the United National General Assembly and the Economic and Social Council. Significant mandates were contained in various human rights conventions, including the International Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights and the Convention on the

Elimination of All Forms of Racial Discrimination. Arising from that extensive mandate, he said, was a consistent reaffirmation by all United Nation member states to develop political education programs in the non-self-governing territories on the options of political equality, to provide assistance to the territories for the UN agencies to conduct visiting missions to make operational the human rights dimension of self-determination and to promote the repatriation of natural resources to the territories.

The special committee was aware of the General Assembly's annual reaffirmation for a transfer of power to the people of non-self-governing territories, consistent with sustained requests for such devolution of power resonating in many of these territories. Forward-thinking recommendations have been advanced by their peoples, including enhancement of the role of such UN bodies as the Electoral Assistance Division, the UN Development Programme and regional commissions and specialised agencies in supporting their political and socioeconomic advancement.

It was difficult, if not inconceivable, to think that an arrangement that did not provide political equality would be acceptable to the people of the territories themselves, he said. They need the information to make informed decisions and it was up to the UN, and especially the administering powers, to live up to these obligations pursuant to its charter. That point must remain crystal clear. The unity and purpose from the seminar, the Canouan consensus, should provide guidance during the implementation phase.

The current members of the Special Committee of 24 are on record and are mentioned in the submission. The annex to UN 1541 of 15 December 1960 gives the principles for the process leading to and following self-determination. This is what Australia agreed to in the bargain of taking on Cocos Islands under chapter XI. It is in the submission. The authors of the charter of the UN had in mind that chapter XI should be applicable to territories which were then known to be of a colonial type. An obligation exists to transmit information under article 73E of the charter in respect of such territories whose people have not yet achieved a full measure of self-government. I have underlined those words in my submission. In the following principles we will see that self-government is realised by successfully achieving one of the three options, full measure obviously means full measure.

Chapter XI of the charter embodies the concept of non-self-governing territories in a dynamic state of evolution and a progress towards a full measure of self-government. As soon as a territory and its people attain a full measure of self-government the obligation ceases. Until this comes about—and again I have underlined the words—the obligation to transmit the information under article 73E continues.

Australia's reporting ceased after the plebiscite in Cocos, though this was only the precursor of the progress towards a full measure of self-government. No significant progresses were made in integrating Cocos, so this obligation should still continue.

On principle III, the obligation to transmit information under article 73E of the charter constitutes an international obligation and should be carried out with due regard to the fulfilment of international law, which is self-explanatory.

Principle IV: prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically or culturally from the country administrating it. This would include Christmas Island, regardless of whether it is chapter XI or not. Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of territory exists, other elements may then be brought into consideration. These additional elements may be inter alia of an administrative, political, judicial, economic or historical nature. If they affect the relationship between the metropolitan state and the territory concerned in a manner that places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under article 73E of the charter. In that Christmas and Cocos Islands both have subordinate administrations to Canberra and are ethnically separate, it underlines the requirement to continue to report on the territories to the UN.

Principle VI: a non-self-governing territory can be said to have reached a full measure of self-governance—so this ties back to the beginning—by emergence as a sovereign state, which is not going to happen; free association with an independent state; integration with an independent state, which is what we voted for. It is clear to see there is no mention that a plebiscite to decide one of these choices is a method of discharging the administrating state's responsibilities. 'Full measure' of self-government in our instance would mean integration as defined below, which will come later. Anything less triggers the responsibilities under principle I.

Principle VII, regarding free association, is not applicable to us. Principle VIII: integration with an independent state should be on the basis of complete equality with the peoples of the erstwhile non-self-governing territory and those of the independent country with which it integrated. The peoples of both territories should have equal status of rights, citizenship and equal guarantees of fundamental rights and freedom without any distinction or discrimination. Both should have equal rights and opportunities for representation and effective—and I underline the word 'effective'—participation in all levels of the executive, legislative and judicial organs of government. There is little effective participation in the executive other than local council. There is none in the legislative so it follows there is also none in the judiciary.

Principles IX to XII go on to define the integration prerequisites, mostly ignored, and security limitations on the information and remissions under 73E. Australia has been unable to comply with article 73 or the guidelines for integration. They are signatories to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and past members of the committee of 24. Australia would be perverse if it did not follow the compliance guidelines scrupulously.

Integration has to be in all equality with the domestic state, in this case Australia. Equality should be on all levels of administration, judicial, legislative, economic and political. There are obvious inequalities in all these levels of criteria. Specifically, our administration is appointed by Canberra. Many errors in judgment or process could be effectively and safely ignored, allowing areas to be compounded or ignored. No lobbying by locals on Cocos has ever been effective in the change of administration policy, even when blatantly in error.

Judicial equality is a technical impossibility under the current regime. Legislation is adopted for Cocos by the Senate from WA with no effective reference to the community. This is ipso facto a colonial method of legislature. Economically we have achieved higher standards of living

but at the expense of gainful employment. There is an obvious lack of effective politically forum; a single representative in the Senate represents us from the Northern Territory. Access can be regarded as good, but even with our senator's backing and consensus of the community, political inertia has to be overcome. This is a real and constant limitation on the evolution of a self-governing territory and political authority.

Taking the above incontestable information at hand, it becomes obvious that the integration process has stalled on its first step. There is no desire politically or administratively to swallow this bitter pill. The process of integration is meant to result in Cocos becoming part of the domestic states; this has proven to be administratively and politically impossible. The attempt to attach Cocos to the Northern Territory during the statehood referendum was the best effort to date to progress the integration, but it was ill-advised and would probably not have been successful.

So Cocos remains *ipso facto* a non-self-governing external territory to this day. This is the same status it held when it was declared a chapter XI territory originally. There has been progress but one cannot say that the integration process is completed or ever can be completed. Australia's responsibility to the territory under the UN charter, covenants and conventions are not discharged. The right to self-determination is undisputedly a norm of *jus cogens*. This is one of the highest rules of international law and it should be strictly obeyed at all times.

There is a telling point that a number of officials from DOTARS and its numerous predecessors and advisers have verbally claimed powers plenary. For those without a legal background, it means 'powers close to god-like'—taking the view that the Cocos (Keeling) Islands Act 1955 was something that removed all rights and privileges from the community and replaced them and the old Singapore ordinances with the WA state statute. This is patently incorrect. Interestingly, the official belief in powers plenary or anything near them confirms the status of Cocos in the eyes of the administration as non-self-governed, colonially administered and unintegrated. The UN stand on this, while not justiciable, is couched in very clear and strong wording. The UN view the administration of such territories and their evolving integration or self-government as a sacred trust with the wishes of the community properly expressed being paramount.

As the territory is plainly not integrated, the following questions need to be asked and answered. What is the current legal status of Cocos internationally? The choices I can think of are: (a) a chapter XI territory; (b) an external territory of Australia forever, in which case we have to revert either to (a) or evolve to (d); (c) an external territory that will become internal—this will stuff up the illegal immigrant business on Christmas Island but would satisfy the requirements of the plebiscite and the UN charters, but it is politically and administratively impossible—(d) recognise reality and negotiate with the people of the territories for close association, which is actually achievable and roughly what the status quo is.

Senate inquiries dating back to 1975 contained Australian thinking that international law had nothing to do with Australian domestic law. This stand has obviously evolved. Australia now embraces many international agreements that limit their domestic authority. Cases like Tauri Tau show that in external and internal territories the way is not always cut and dried. With more and more evidence that in a situation where there arises conflict of international agreement and

domestic statute, the result is complex and each and every case is regarded as unique. More often than not conflicting domestic law will be overturned.

Chapter XI territories are regarded as separate and distinct from the domestic state and rights are recognised under international law. Any territory that has been declared chapter XI has internationally recognised rights. In the situation where these rights and/or privileges conflict with domestic legislation, it is the UN's view that the community's wishes, properly expressed, are paramount. This is not a matter of statute and it is not justiciable by the community but will open a Pandora's box when Australia seeks to limit or prohibit the people's rights on Cocos. A case in point is the Cocos Islands adoption process which is contrary to Australian family law. The issue has been studiously ignored by the administration after initial efforts to achieve compliance. The Cocos community continues in flagrant disregard of family law; Cocos Island will always have rights differing to domestic territories and this is unarguable, especially in a situation where the wishes properly expressed by plebiscite to integrate have not been honoured.

It has been argued by Sir Alan Watts to the Senate that the right to self-determination is inextinguishable and was maintained even if full integration was managed. I see no reason to believe that this argument can be countered as the rights of self-determination were found by the International Court of Justice to be a right held by peoples rather than a right held by governments alone. In this sense it would be hard to argue that a majority vote of people could forever extinguish the rights of the dissenters.

In the struggle to address the concerns of standing governments, political reality and the day-to-day administration of the islands, the bureaucracy, with some help from the Senate, have created a system that suits them. There is little, if any, reference to the higher moral and political principles it was placed under when it was declared a chapter XI territory. The UN is quite clear that no circumstances can interfere with the self-determination process.

Turning to general comment 3—article 2, paragraph 1 of the covenant—the fifth session in 1990; the committee wishes to emphasise that even where the available resources are demonstrably inadequate, the obligation remains for a state party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realisation or non-realisation of economic, social and cultural rights and to devise strategies and programs for their promotion are not in any way eliminated as a result of resource constraints.

The committee has already dealt with these issues in its general comment 1 in 1989. This leaves Australia open to great criticism as they obviously have the wherewithal but not the political will. I have seen no program or schedule, though uttering it would be well within the capability of the administration. Many of the laws put in place for Cocos and Christmas are geographically specific to Western Australia. We have the main roads and mining act, the Herdsman Lake preservation act et cetera; legislation that is not able to be administered ever and the sheer mass of it encourages scofflawry.

CHAIRMAN—That is a very interesting word; I have not come across it before.

Mr Clunies-Ross—It is going against the law with the intent to break the law, to ignore the law intentionally. Push bike helmets are technically required on Cocos, but due to the absence of

danger parameters, no motorways, footpaths or hills, no traffic flow, this legislation is only enforced for minors and I do not disagree, but it allows police a discretionary authority over adults that they do not have on the mainland. To me it is insulting that the legislation has not been reviewed to ensure its suitability. Cocos had a review process at one stage but it was rapidly disbanded, though I am assured the Christmas Island body is still functioning. That is the end of one argument.

Article 1, part 2 of the International Covenant on Economic, Social and Cultural Rights states:

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Current statutes—the Environment Protection and Biodiversity Act, the migratory birds act et cetera—conflict with the ability of Islanders to subsist on our natural wealth and resources. These rights pre-exist the Cocos act; they are part of a signed covenant. It reinforces that the ownership of the natural wealth and resources of the territory are with the people of the territory. These rights were recognised prior to the Australian administration and the territory was accepted with these rights in place. So the natural resources of the territory are not Australia's to control unilaterally as ownership is to the people is inalienable. Any attempt to counter this is contrary to international agreement. This is not to say that our wildlife does not need management, but it is the community's to manage.

The way forward is to assess and accept the real limitations imposed on Australia by its own domestic legislation and Constitution. Either abandon the effort to integrate in a constructive manner and create a real program to achieve the required dynamic state of evolution towards self-government in any of its forms or change the domestic and constitutional limitations to reflect Australia's freely accepted responsibility and integrate in complete equality. Currently the system of governance is all responsibility and no care; we need to bring in a balance of care and responsibility.

To address the inquiry's references probably a bit more directly: on accountability, currently there is no process for accountability, even when accountability is certain for misfeasance and malfeasance. I can only remember a single case of it ever taken beyond a mild slap on the wrist. Decision making is done remotely, with little reference to the community. Policy is not debated; it is presented by media release and generally only adhered to if it is revenue neutral.

The role of the shire in Cocos: the shire has responsibilities as trustees of the land trust. This means it controls the vast majority of the atoll. I believe there are many areas of conflict between the operations of the shire council and those of a trustee to a private land trust. There is constant pressure for the shire to take on more state level responsibilities. I cannot see that this will be in the best interests of the communities. Shires are separated from the state government and the federal government for good reasons. The shire has direct responsibility to provide on-the-ground services to the residents. Many of our community have not had the benefit of tertiary education and a number have no formal education at all. One cannot belittle the efforts made on behalf of the community by our councillors but the traps and pitfalls created by state and shire responsibility amalgamation would test the best of people. To force this on a small community within the current legal frameworks would be asking too much.

Aspirations: much of the preceding text is the result of my own research arising from my aspirations for a more representative form of governance. The majority of residents on Cocos are content with the status quo, seeing rising living standards and housing as a reasonable reward for subjugation. The same people do not seem to understand why there is rampant unemployment, patchy social services, a crumbling sense of community and a growing feeling of powerlessness. There are few initiatives created on the mainland that would transfer well to Cocos to address the problems here.

Governance and economic sustainability: there are some but few direct connections between government and sustainability. This does not mean that more representative governments would create more economic activity. Compliance with federal regulations and our external standing is onerous and it is hard to justify any exporting business in the face of federal regulations. As we are federal on both sides of the border, whose responsibility is it to help with compliance? Anti-growth regulations can be passed with negligible consequence to the political sphere and without proper budgetary provision for compliance.

The operations of WA law: all in all, WA legislation has addressed the limited view of Australia; it has significant legal problems, as outlined previously. There are also procedural issues in that the territory's budget written by the Commonwealth does not reflect the social and economic initiatives put forward by WA state government. The budget is fixed prior to and separate from the WA budget and has no flexibility to address initiatives put up by WA even though the Commonwealth levies WA taxes. In precis, the budget, legislature and base economics have to be addressed in a more holistic manner to get any chance of a balance. Specifically, if we are taxed to WA levels, we should get all of WA's state functions for our money as and when they are offered by WA state government.

Service delivery agreements: these are a practical solution to governance issues on Cocos and Christmas Islands. Issues arise when there is no expertise in the pertinent department or the budget is not sufficient to carry out the required works. This is especially true when a new agreement is negotiated. Initial entry into an SDA can be expensive; to operate an expected running cost would not reflect true entry costs. There have been conflicts in federal responsibilities and state SDAs. The Cocos fishery is full of unclear responsibilities and under-funded authorities. Applications for biosecurity clearance for importation of live shells for breeding in Cocos is expected to take years.

I would suggest, as outlined previously, the Commonwealth address the real underlying issues of the requirements of the UN integration process. Either comply in totality within a reasonable period and within a written program or abandon the effort as impossible and renegotiate a close association agreement with the community. This will reflect the requirements of both sides in a much clearer manner and could be loosely based on the status quo. Real efforts need to be made to address the issue of governance and budget considerations should not impede this process. I have added a few more pages of background information.

CHAIRMAN—Is it the wish of the committee that the submission tabled by Mr John George Clunies-Ross be accepted as evidence to the inquiry and authorised for publication? There being no objection, it is so ordered. What is self-determination? In a precis form—if you want to expand on it feel free to do so—can you describe what it means to you with your particular model of self-determination?

Mr Clunies-Ross—Self-determination is an agreement between the UN and Australia which basically puts the Cocos Islands in focus between the two. The relationship between the Cocos Islands and Australia and Australia and the UN are intermeshed. For Australia to take on the Cocos Islands as a chapter XI territory they have to comply with the UN charter. That is part of the agreement and is a prerequisite to taking over a chapter XI territory. You cannot get away with that. To then ask the people here to make a free decision, we voted to integrate with Australia. Can I ask you: are we integrated? We are not; we are still an external territory.

CHAIRMAN—Why do you not test your theory by taking the hypothesis to the UN?

Mr Clunies-Ross—The UN are not really interested in us because they are under the ignorant assumption that we have integrated with Australia. For me to go to New York with something like this would cost me a lot of money. I am a busy man; I have other things to do. If I had an elected representative with a budget to do these things, I am sure he would be able to do it. At the moment—and this is one of the other issues—we have no effective representation, so who is our spokesperson?

CHAIRMAN—How would a mendicant island or a series of atolls like Cocos (Keeling) survive on its own? Say you achieve your goal of what you say is a required act by Australia for you to have self-determination here, how would you survive?

Mr Clunies-Ross—We have been offered three choices. We voted for integration. It is patently impossible. We do not want to be independent; we voted for integration.

CHAIRMAN—Are you saying that the way the island is run currently is an anomaly?

Mr Clunies-Ross—The Commonwealth brought to the table the possibility of integrating into Australia and they have been unable to discharge that part of the bargain, and it is the base part of the bargain.

CHAIRMAN—I would have a strong feeling—this is my personal opinion and I do not want to speak for the committee—that there is not a court in Australia, up to the last appellate court, the full bench of the High Court, that would not consider that Cocos (Keeling) is an integral part of Australia.

Mr Clunies-Ross—I beg to differ. We have already tested a small case in the Magistrates Court here and we are already peeling away at the magistrates level. They say we are culturally significant people; we are separate, we are distinct and we have rights separate to those on the mainland. The EPBC and the migratory birds act are being peeled away as we speak and that is a very strong act in Australia.

CHAIRMAN—What about a lot of the other external territories and indeed other islands around Australia that have similar traits that you say are integral to come under the charter of the UN?

Mr Clunies-Ross—I would not argue their case for them because I have a hard enough time just tying in Christmas Island to the issues. Norfolk is self-governing to a greater degree and has been so historically for a long time. Many of the other external territories of Australia are

basically non-populated or only temporarily populated or populated under international agreement. Really there are only Cocos and Christmas Islands. There used to be New Guinea until independence.

To go back to the original question, I am not here just to gainsay an existing agreement. The people have agreed to become part of Australia, they have done every single part of their side of the bargain. They had the plebiscite, they obey most of the laws, except for hunting booby birds, they are good Australian citizens, they pay their taxes, they do all the things that Australian people do. They comply with every part of the Australian requirements. Australia has made one step towards the integration process and it failed. That was the integration with the Northern Territory. Even integrating with the Northern Territory could not be said to be integrating with the domestic state of Australia because the Northern Territory is not even recognised by Australia as part of the domestic states, technically. It is impossible. It should never have been put on the table. You will not be able to integrate Cocos Island into Australia, so where do we go from here?

CHAIRMAN—I have to put it to you that it is already integrated into Australia.

Mr Clunies-Ross—You ask anyone from the territories: are we an internal territory or an external territory? Did you have to show your passport to get here? Do you have to do that to go to any other state in Australia? Would that be regarded as equal? If I went from one state to another do I have to show my passport? Are we treated equally? No, we are not. You start to trip over it just at the airport. At every stage, you just start picking at these threads. Why do I have to show my passport? We are an external territory; we are non-self-governing and we are external. DOTARS send out facts sheets with external non-self-governing territory printed on them. It is obvious to me that it has stalled. No-one is in charge of this process. You are not. The process had to have someone in charge of it to make sure it was going to take the next step. It has stalled. DOTARS are not interested in it. They still pick up their wages at the end of the week without any progress on this system.

This is my only forum, my only chance of this ever being addressed properly. You have built a decent house of statute and everything else on Cocos Islands but it will be undermined unless you actually recognise the authority on which you are putting those statutes. The authorities come from the UN; they do not come from your domestic legislation. Without compliance with the UN—and the compliance runs through all the statutes—there is Buckley's chance of enforcing the statutes here. We fought and almost won the booby bird thing in a case last month. The only reason we did not get off scot-free was that the magistrate was bound over to fine us because that was as far as the legislation could go. If Parks care to take us to the next court and challenge her decision I will almost guarantee the legislation will be overthrown in this territory. Any legislation that you put in this territory will be overthrown if it does not comply directly with human rights and respect our rights to our own natural resources.

Mr CAUSLEY—On your human rights argument, the only privilege that you do not enjoy here is that you do not elect a state member.

Mr Clunies-Ross—I am not saying the management of the territory is faulty; do not misunderstand me. People have a good standard of living and the majority of things are going swimmingly. No-one has a problem with the management of the territory. This is about

governance; it is another step away from management. From governance comes the management.

Mr CAUSLEY—Do you not want self-governance?

Mr Clunies-Ross—I want some more representation, I need more feedback. I need to be able to pick up a phone and get stuff done. At the moment I am totally confused by federal people. Half are state functions and half are federal functions, and I have this interface which is hard. I am more than willing to comply with it, but if I break those laws because I am pretty jack of them and somebody takes me to court, I will overturn them. People will overturn the whole house of cards—it is not even a house of cards, it is a good house, but it is on bad foundations.

Mr CAUSLEY—Are these planning problems? What are the issues that you have problems with?

Mr Clunies-Ross—I address my issues as I need to. I am pretty up on my issues. They are not really part of the governance issue; they are legislative requirements that would comply with anywhere in Australia mostly. The interaction between state, federal and everything else here is quite confusing. I am not talking about management, I am talking about governance; the government and the statutes of the territory need to be built on a solid foundation. If somebody comes in here and starts a brothel with children in it and they have a heap of money, it is London to a brick that he will absolutely fight you to a standstill. You will have Buckley's because he will go to the Supreme Court and the Supreme Court will say: 'Where did you get the authority to take the territory on? You got it from the UN, you did not assume this territory from anyone other than the UN. You shook hands with them. You signed the agreements and you have to comply.' I am talking as a citizen. If somebody starts a paedophile brothel here I will be the first one trying to tear the place down.

Mr CAUSLEY—I am not a great fan of the UN. I think there are a lot of words but there is not a lot of action.

Mr Clunies-Ross—The Commonwealth are placing themselves in the same situation. They have said the words, they have shaken the hand, they have signed the documents, but now they are incapable and unwilling to follow through with their agreement.

Mr CAUSLEY—Do you realise that the cost of running the Indian Ocean territories is around \$80 million a year? Did you know that that is probably about three times as much as the average Australian gets on the mainland?

Mr Clunies-Ross—I understand where you are coming from in a dry nose sort of way. We did not approach the Commonwealth to take us on; the Commonwealth approached us. The Commonwealth came to Cocos Islands with a bargain. That bargain was open-ended on the Commonwealth side and pretty much open-ended on our side too, but there are a number of specific requirements that have to be complied with by Australia, otherwise you are not complying with your side of the bargain. The financial responsibility of the Commonwealth and the territory has little or no bearing on the governance of the territory. Most of the money spent on Christmas Island is on the federal issue of immigration. Christmas Island does not have an immigration problem. The vast lump of the budget spent in the territories in the last three years

has been on nothing to do with Cocos or Christmas Island; it has everything to do with a federal budget issue. If you said to us, 'You can put up an immigrant and we will give you \$80,000 a year,' I would have them as a house guest; it would not worry me at all. The fact of the matter is that you have built a low security place on Christmas Island. You have spent a lot of money on that and I cannot see that it has any relevance to me, to Christmas Island or to the governance of the island.

Mr SECKER—In your submission you mention the adoption process and how it would be illegal in Australia, or that the Family Law Act was not being complied with. Can you expand on that? That is the first time I have heard of it.

Mr Clunies-Ross—Within a small community a number of people will have, say, three or four girls and no boys and someone next door or two or three doors down will have the opposite problem. To keep it very simple, somebody would say: 'I have too many boys. There is too much testosterone in my house. I want a girl.' They would go and woo a girl from another family. They would have her around to play, buy her things and eventually woo her into coming into the house. That child would be regarded as a member of that family, be raised by that family, taken to school by that family, live and eat with that family for the rest of their days. They would know their mother was someone else but the primary care giver would have been shifted to someone else. There is no way this would ever comply with the WA family law act. They tried to do it; a couple of legal people came from Canberra to try and squeeze it into the shoebox but it would not fit. Since then it has been totally ignored. Right now you could go in there and find a family that does it. You would have Buckley's of taking anyone to court over it because they started with those—

Mr SECKER—They are not legally adopted. What complications would there be?

Mr Clunies-Ross—I do not enforce compliance. As long as there are no complications there is no problem. If there is a complication then there is a big complication because you already have the statute in place and you have ignored it.

CHAIRMAN—To what country do you direct your unqualified allegiance?

Mr Clunies-Ross—At the moment I am a Cocos Islander first and an Australian second. I feel that my community requires me to be a Cocos Islander first and an Australian second. When that requirement ceases I will be an Australian first and a Cocos Islander second. At this time I would say I am a Cocos Islander first.

CHAIRMAN—I was enthralled by your contribution this morning and this afternoon. Thank you for coming before the committee and giving us that information.

Senator JOYCE—We have been hearing the self-determination argument during our visit in differing forms and degrees in different areas. Many of the arguments tend to contradict one another; different submissions will contradict one and another in forms and degrees. If you were sent to Canberra and you had complete run of the place for three days, or however long it took you to reform the place, what would you do differently? If you had everything at your disposal and you could take any course of action, what would it be?

Mr Clunies-Ross—I would first kick a few heads in DOTARS, tell them they are big dozy bastards and it was about time they took their responsibilities on board. I would then write to the UN and say: ‘We have been unable to integrate this territory. We are in negotiation with the territory now to freely associate. We would never be able to stand independent so we would have to be freely associated with Australia.’ Once you have decided to freely associate, a lot of these problems that you are coming up against now disappear. They are not your problem any more; they are the territory’s problem. This macro and micro management of the territories will have nothing to do with Australia any more. The territory will come cap in hand at budget time and say, ‘We need this,’ and you guys will say, ‘Well, we need a detention centre.’ You say, ‘Well, this goes with that,’ the same as you do with a state negotiation. Then the macro and micro economic and political management has got very little to do with you. You could provide a guideline. It obviously has to be democratic, but we would see a lot less of you and we would get fewer phone calls.

Senator JOYCE—Without the size and the extent of the bureaucracy, in the end you would have a quasi-form of state but without any direct connection with the mainland.

Mr Clunies-Ross—You would have pretty much what you have now. You would not have to have any more bureaucracy because basically all the bureaucratic functions are covered locally here and on Christmas Island. I am upset that DOTARS do not have a representative here. Imagine if the ministry for any state said, ‘We are all going to live in Canberra now, see you later, bye.’ Having bums on seats in houses here affects our economic outlook; another five or eight people living on the island actually administering the function of DOTARS in the territories would make a big difference to our economics.

Senator JOYCE—Who would perform this form of governance? What would be the structure? If it is a quasi-state it has to have some sort of governance. How do you perceive that to be?

Mr Clunies-Ross—The Northern Territory evolved through a process of an appointed and voted-in body. I would suggest that would be a starting point. These people already know the game. There are four people on there. They can outvote the local people four to three, and then in seven years or five years the whole body will be a locally appointed body. Maybe you can even keep one because you cannot get rid of the administrator’s position; it is too integrated into the legislation.

Senator JOYCE—Would it be one vote one value between Christmas Island and Cocos Island? There are more people there than here.

Mr Clunies-Ross—I think the only requirement would be to agree on a budget between the two islands prior to the budget being approved; otherwise one vote one person. I am being realistic here. The Christmas Islanders would have all the budget otherwise; they would suck it up. If agreement for the budget were required prior to budget approval then you would have to do your political infighting prior to going to the Commonwealth for your budget allocation.

Senator JOYCE—Would you have it on seats? How would you elect people? What would be the process of selection?

Mr Clunies-Ross—I am not an expert on that. Cocos Islanders are much happier appointing people themselves. They just walk around and say, ‘This person will do it,’ and if he says, ‘Yes’ he will go and do it. If he says ‘No’ they try to find someone else. All agreements made with people on Cocos Islands are personal agreements. They look you in the eye. We talked to Wahin in the court and he said, ‘Yeah, I shook Bob Hawke’s hand and he said, ‘She’s apples, mate.’ If he is the most powerful man in Australia, the head of government, he expects him then to do the right thing. He went to the Magistrates Court and said: ‘What’s the problem? Bob Hawke said its cool.’ Things change and no-one bothers to inform the community that things have changed. Ignorance of the law is no excuse. There is a cultural issue on Cocos, but having said that, the democratic process will work in its multifarious matters. At least we can go thump someone or abuse them down at the pub.

CHAIRMAN—Mr Clunies-Ross, thank you for your attendance before the committee.

Resolved (on motion by **Mr Causley**):

That this committee authorises publication of the evidence given before it at public hearing this day, including publication on the parliamentary database of the proof transcript.

Committee adjourned at 12.17 pm