COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS

Reference: Reeves report on the Aboriginal Land Rights (Northern Territory) Act

WEDNESDAY, 24 MARCH 1999

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS

Wednesday, 24 March 1999

Members: Mr Lieberman *(Chair)*, Mrs Draper, Mr Haase, Ms Hoare, Mr Katter, Mr Lloyd, Mr Melham, Mr Quick, Mr Snowdon and Mr Wakelin

Members in attendance: Mrs Draper, Ms Hoare, Mr Lieberman, Mr Lloyd, Mr Quick, Mr Snowdon and Mr Wakelin

Terms of reference for the inquiry:

The Committee shall inquire into and report on the views of people who have an interest in the possible implementation of recommendations made in the Reeves Report. In particular the Committee will seek views on:

(1) the proposed system of Regional Land Councils, including

  (a) the extent to which they would provide a greater level of self-management for Aboriginal people, and

  (b) the role of traditional owners in decision making in relation to Aboriginal land under that system;

(2) the proposed structure and functions of the Northern Territory Aboriginal Council;

(3) the proposed changes to the operations of the Aboriginals Benefit Reserve including the distribution of monies from the Reserve;

(4) the proposed modifications to the mining provisions of the Act including the continuing role of government in the administration of these provisions;

(5) proposals concerning access to Aboriginal land including the removal of the permit system and access to such land by the Northern Territory government; and

(6) the proposed application of Northern Territory laws to Aboriginal land.

The Committee shall make recommendations on any desirable changes to the proposals made in the Reeves report in the light of the views obtained.

WITNESSES

Committee met at 4.37 p.m.

CHAIR—I declare this public hearing for the committee's inquiry into the recommendations of the Reeves report on the Aboriginal Land Rights Act duly open. As many of you will know, the Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron, has asked this committee to seek the people's views about the recommendations in the Reeves report. Members of the committee are approaching this inquiry with an open mind. It is a controversial report. We expect robust discussion, but we have an open mind. We look forward to the advice and input of as many people as possible, Aboriginal and non-Aboriginal, in a spirit of cooperation and goodwill.

We want to consult as widely as possible. For this reason we will be visiting regional centres and communities in the Northern Territory. We have already been to Darwin and Bathurst Island, and we are going to the Territory next month and again in May and June. To continue the consultative process we will be holding hearings, as we are, today in Canberra. Today we are looking forward to taking evidence from the Australian Anthropological Society.

The hearing is open to the public. A transcript of what is said will be made available to the public on request and to witnesses and anyone who would like further details about the inquiry or the transcripts please feel free to approach any of the committee staff here at the hearing today. With those remarks, I formally welcome witnesses from the Australian Anthropological Society, affectionately known as AAS.

[4.38 p.m.]

EDMUNDS, Dr Mary, Native Title Net Coordinator, Vice President, Australian Anthropological Society, New South Wales

MARTIN, Dr David, Member, Australian Anthropological Society, New South Wales

SMITH, Ms Diane, Member of Native Title Subcommittee, Member of the Executive, Australian Anthropological Society, New South Wales

SUTTON, Dr Peter, Member of Native Title Subcommittee, Member, Australian Anthropological Society, New South Wales

CHAIR—Although the committee does not require you to speak under oath, you should understand that these hearings are legal proceedings of the Commonwealth parliament. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament.

Hansard reporters will be taking a record of what is said today and from time to time I may ask you to repeat or spell place names so that we can record the details accurately. Before we ask you questions, I should refer to my understanding of the record. You have already made a submission entitled, *Anthropological submission on the Reeves review*, Peter Sutton, 10 February 1999. That document has already been included in the public record and has been authorised for publication. I take it that you may wish to refer to it as you present your submission to us today.

Do you have an opening statement that you would like to make? We welcome you very much. We know the skill and dedication that you have. We will gain a lot from your wisdom and knowledge. I am hoping we will have lots of time for questions, so I hope we do not have to have a lot of time of reading things. Nevertheless, make your opening statement and we will get stuck into the nitty-gritty of questioning.

Dr Edmunds—Thank you, Mr Chairman. My role was really to give a little bit of background and a short introduction to the submission that Dr Sutton has prepared. As you are obviously aware, the Australian Anthropological Society is the national body of professional anthropologists and today's submission was prepared at its request. This arose at the 1998 annual general meeting of the society at which the members noted the central significance to the Reeves report and recommendation of the anthropological material and expressed concern at what people felt was a serious misreading in the report of much of the anthropological material, specifically, for example, the defining of the regional population as the land owning group in Aboriginal law and tradition.

As a result, the Anthropological Society commissioned Dr Sutton to prepare the submission to this committee. I would just like to emphasise that the brief was to deal specifically with the anthropological issues that are raised in the report and used as a basis for the report's recommendations. I was going to make a few further comments about the experience of each of us, but it may be unnecessary in light of the introductions that have now been made.

CHAIR—Yes. I think also members' contribution to the science is well known and documented. If members wish to ask for further details, they are welcome to do it. Mary, if I could be presumptuous, I have been given the benefit of looking at a brief summary that you have been kind enough to prepare of the society's submission, and I think it is a very helpful document. It is about four pages. We could authorise it for publication if you wanted to put it in as a further submission or you could read it in. It might help with a lot of questioning if you read it, I think. What do you think?

Dr Edmunds—At this stage I was going to hand over to Dr Sutton to talk to his submission and I think he will be covering most of the points that are raised.

CHAIR—That is okay. It is very helpful and I appreciate it very much. Thank you.

Dr Sutton—I apologise for not writing an executive summary in the first instance, but I do not like that term very much.

CHAIR—Nor do I.

Dr Sutton—It does not help sometimes. Rather than read it literally, what I would prefer to do is highlight each paragraph point, more or less freestyle, if that is acceptable.

CHAIR—That is fine.

Dr Sutton—We begin by mentioning a number of the aspects of the Reeves review which many of us would support. The general feeling that there needs to be some action on the question of decentralising of land council activity in the Northern Territory is important. How that is done, of course, is a separate issue. The second issue that needs to be confronted, and rightly so, is the need to offer greater security of tenure to people who currently live in what are basically Aboriginal townships but who many not have any legally enshrined rights under current law to be there. The third issue is the need to do something to alleviate complaints about the permit system. I am a little less helpful to you in suggesting ways around that, but we agree that the problem is there. The solution seems to be one that would be widely unacceptable, certainly in my own view.

CHAIR—The trespass bit of it.

Dr Sutton—Yes, reducing it basically to the common law approach.

CHAIR—So you do not tick that one off, but you agree that some work needs to be done on the existing system.

Dr Sutton—Yes. The level of complaint about the existing system is obviously high enough to flag that something should be done. I do not claim any special expertise. Particularly in implementation of administrative matters I have tried to keep to anthropological issues.

The fourth issue is the need to maintain a distinction between owners of country on the one hand and custodians of sacred sites on the other. I differ from the Northern Land

Council's view on that and maybe one or two other issues. I do think the distinction that has been there historically is a good one and it rests on cultural realities that, from an anthropologist's point of view, stand out very clearly when you are doing field work. For example, someone will say, 'That country there is not my country. The soil is their's, but if anything has to happen to those trees'—and I am thinking here of a particular case at Cabbage Gum Bore—'they must talk to me.' Everyone in the group who owns the soil, as it were, says, 'Yes, that man from the Barrow Creek area is the boss of the sacred element here. Without him nothing could be decided.' But he makes no claim over the soil. In other words, he is a top custodian, but he does not claim the land in a proprietary sense. This is a distinction that one comes across quite frequently.

CHAIR—Peter, would it be analogous to give the example of a planning officer in a municipality who does not have any physical ownership of the land or control over it but who requires consultation under law of the white man before you are able to do something on that land?

Dr Sutton—I think it is a very close analogy. There is a danger in looking to find analogies, but that is a very good one.

CHAIR—Okay.

Dr Sutton—That is dealing with two levels in the system—in this case, the Aboriginal system and the English derived system. But both systems are much more complex than that because, in addition to the planning authority, we have the local government council, which can regulate the lopping of trees, we have water catchment authorities, we have state governments who exact land tax, we have the root title of the Crown, all involved in each one of our little suburban blocks. Our tenure and our privileged position does not account for the system of tenure. It is only our interest in it that we assert, and that has strong parallels with Aboriginal systems.

The last point is that some of us have seen on the ground over many years a fair bit of political competition between land councils and the Aboriginal Areas Protection Authority. I think some of that has been rooted in the way the law is set at the moment, and some kind of addressing of that issue legally needs to be done in order to lower the temperature in that situation.

CHAIR—Peter, do you see the same potential for competition, which may or may not have a remedy but which needs to be addressed, vis-a-vis the land councils interfacing with local government and with the Northern Territory government?

Dr Sutton—Yes, and there is another tier there which is not technically government. Churches, for example, also play a role—one that was historically rooted in a much more government like role, which is now diminished. But in terms of, if you like, pathways to influence, several government tiers, plus churches, plus perhaps political parties—I am not sure about that—certainly intermesh at certain points and offer people the ability to play various sources of patronage off against each other in order to make gains, which is human and everybody does that. It has been commented on in one or two reports on breakaway land councils that have been done as a factor. I am aware of it personally from one part of the

Northern Territory where I was physically. I think it is over idealistic and unrealistic to expect to get rid of that kind of playing off of different sources of resources and influence against each other.

CHAIR—What you need is a process to deal with it.

Dr Sutton—When it happens. There are certain cultural realities behind it which are not going to go away. I think the general public often does not understand the extent to which this kind of politics is thrown into sharp relief in what is effectively a very small polity, a very small political community. The whole of the Northern Territory's population could be fitted into a few large suburbs in Melbourne or Sydney. It is easy for institutional relationships to become much more personalised than they might in some bigger populations. There again, there is no immediate practical solution to that kind of issue.

One has to go with the flow and live with a fairly high level of politics, a fairly high level of conflict, a fairly high level of establishing a new form of relationship to power and money. When you are 15, 20 years seems like a long time. After being in this game for 30 years, 20 years does not seem very long to me. Things are really still settling down from the major ground shift that happened in 1976. I think to disturb the boat too early in terms of institutional arrangements is to court destabilisation, and I have advised against that in the major report. I am less in favour of the status quo than most of the older Aboriginal people I speak to. If they see something wrong with the system, they are very reluctant to encourage change, even in the European law. They will constantly say, 'Your law changes all the time. Our law never changes. Why can't you just keep it still for a while?'

Even to improve the law sometimes is to court destabilisation to the point where improving it is not worth a candle. I think that perception is actually stronger among Aboriginal people than it is among people like me. So while I have said I will go along with certain changes, I suspect there are quite a few people out there in the Northern Territory who have to live with these systems who might say, 'Just keep it quiet and keep it regular for a while. Don't change the law all the time.'

CHAIR—In a perfect world, if changes could be identified that would be beneficial to Aboriginal people—their health, their wellbeing and their future—would it not be appropriate for those changes to be confronted because of the benefits that would flow, rather than accepting the suggestion that you must not change what is there now?

Dr Sutton—If you take the very long view, certainly I think there are serious improvements that could be made to the current act that would be beneficial. One of them would be to dilute the very heavy emphasis on the local descent group as the primary holder of rights and interests. As I have said in my submission, there is no one level that works for all purposes. That would be a concrete improvement.

CHAIR—Which group?

Dr Sutton—The local descent group in the current act.

CHAIR—Descent.

Dr Sutton—Yes, the LDG, which is typically a very small group of people. The averages tend to be around 20 or 30 people, something like that. The importance of that level of grouping, which you might call the fine grain level, should not be lost in my view because it remains of high importance to most people.

CHAIR—We mostly call them grassroots.

Dr Sutton—It is grassroots.

Mr SNOWDON—Who is to judge what is beneficial?

Dr Sutton—In this context there are lots of stakeholders, because technical evidence is written into the law, as it is set up for this act and for native title and for heritage legislation. The accumulating and submitting of documents written in modern English, and so on, is written into the law. All of this entails a collaboration between the primary stakeholders, who are the Aboriginal people concerned, bureaucrats, anthropologists, lawyers, and people in politics. That is the mix we have. All of those groups are in this equation on the basis of their preparedness to perform. None of them are slaves to each other.

In that sense, anthropologists have an independence, which they fairly fiercely defend—that is, their involvement is usually on the condition that they retain their own integrity. There are also those in the equation who spend a long time with people, living with Aboriginal families. Certainly during their primary training it is normal to live with an Aboriginal group for 18 months as part of that training. That gives you a caring perspective, at least, about the people you know and are attached to, which inevitably happens. In that sense, you have a care for their welfare, to put it in old-fashioned English. I do not see that as being patronising. I think I know the point you are leading to, which is, ultimately: what is of benefit to people is what they decide is of benefit to them. But in this case what we are defining is how good the act is, and that is a collaborative effort between the primary stakeholders and the other parties I have mentioned.

Mr SNOWDON—I do not disagree, but I want to clarify that point. It seems to me that, ultimately, however beneficial we might believe whatever change is, if it is not regarded as beneficial by the primary stakeholders, it is not worth a stamp.

Dr Sutton—I think that is the ultimate test. The question is: at what point do you become satisfied that that reaction has gelled out?

Mr SNOWDON—Let me go one step further. You only find that out by a process of discussion, consultation and negotiation. Don't you agree?

Dr Sutton—Yes, and I think negotiation is an important part of it. It is not a mere fact-finding exercise; it is a relationship.

Mr SNOWDON—If I could just make one observation, would you regard any of the recommendations, including the anthropological recommendations, as having been negotiated with anyone?

Dr Sutton—Not on the evidence that I have seen. There have been hearings and visits and so on, yes.

CHAIR—In fairness, I would have to put on record that it is my understanding of the process of the Reeves inquiry that his terms of reference did not require him to find, as a matter of fact, certain things that were supported by traditional people. I do not think it is fair to put Mr Reeves into the position of having been required to do that and failed to do that. He has given his view on a number of issues, some of which you agree with and some you do not. Some people who are traditional do not agree with his conclusions; others might. I think we ought to make it clear that the Reeves report is not deficient because it failed to categorically find a particular thing based on evidence and submissions, although it is very important that we factor in the basis on which he made his recommendations, too.

Mr SNOWDON—It seems fundamental though for this exercise that the legitimacy of the Reeves report in terms of primary group, those people about whom this report is written, rests on whether or not they believe they participated in the process and have accepted a negotiated process which they can support in terms of any recommendations. I disagree with the Chair because I think a major flaw in this document is the fact that it was not negotiated, that there was no consultation, that it was a writ from on high and there was not appropriate discussion. I need to put that on the public record.

Dr Sutton—In my submission I have tried to find empirical evidence, particularly from outside this immediate situation, that bears on the questions, and it does bear on the questions of people's wellbeing and people's expression of their own will. I checked yesterday that if you looked at the 31 land claims lodged under the Queensland Aboriginal Land Act since 1991, not one of them has included people who have lodged a claim on the available legal basis of mere historical association, that is, long term residence. Most of the claims have been lodged on two grounds: traditional affiliation and, as a second string, historical association. Many people have historical associations with those lands who have not made any claims. Under the act, they are entitled to do so. None of them have done so.

CHAIR—Under the Queensland act, not the NT one.

Dr Sutton—That is right, under the Queensland act. Now those are people who, in the main, have had much more impact from non-Aboriginal society than people in the Northern Territory, with the exception of the Darwin area in particular. In other words, they are further down the road away from how things were done 200 years ago, if you like. But there is no sign, even among the youngest people there—and I have done a fair bit of work in Queensland over 25 years. Even the youngest people, the great grandchildren of the people I used to work with, have the same view about what makes you an appropriate person to hold primary recognised legal rights in country that you have an Aboriginal right in. They will all say that it is who you are and where you are really from that determines the country you can claim.

If you are an historical person, as they call it in English, in Queensland in particular, yes, you have rights. No, they are not the same as the rights of where you really come from. You can be third and fourth generation at Yarrabah or third and fourth and fifth generation at Hopevale and you are still, what some people would jokingly call, a tourist. But what they

are drawing attention to is that you ultimately come from somewhere else. Therefore, your rights here may be to go fishing anywhere within 20 or 30 kilometres of the settlement or you can get fruit off the wild plum trees when they are in season. That is all right. That is an economic right, if you like. But there are other kinds of economic rights that you have not acquired even after three and four generations.

For example, if Club Med came along tomorrow and said, 'We would like to build a complex here which would involve bringing in about 2,000 non-local people. We will do a deal with you. There will be money involved,' of course all the local residents would have an interest—this has not actually happened near Yarrabah yet, but it is that sort of land—but who is really going to answer that question? People are going to say, 'Sorry, long-term residence is good and fine. We are not kicking you off. You can stay here but your rights always hang off our fundamental identity. This is not where your identity is; this is where your life history is.' As one old man put it to an anthropologist a little while ago: born is nothing, meaning you can be born here. That is all right. That is good, but it does not make you a landowner. In some parts of the Northern Territory it can, particularly in the south west of Northern Territory. That is a local and very ancient tradition that was documented in 1930 by Professor Elkin.

To lose that distinction and to provide legislative comfort to those who would exploit residents as a basis of gaining financial power and political power, I think, is courting disaster and courting an awful lot of civil cases. If the past experience of people taking civil action over these issues in the Northern Territory is anything to go by, that possibility is opened up vastly more by breaking the mould of a tradition that shows no sign of going away. Even in New South Wales—I have cited some evidence from New South Wales in my paper—after 200 years people still recognise the key distinction between the way-back mob, those people whose ancestors truly come from a certain area, and those who either moved in or were moved in by truck or whatever during the period since colonisation.

Legislation overrode that principle in 1983 and the New South Wales Aboriginal Land Act said that residents will be the basis of the land council structure. That attempt, in a paper sense, overrode that old tradition. It has come a terrible cropper because it is now one of the major sources of internecine conflict within these areas. People are saying, 'I've been resident. I am legally recognised. I have power. I can vote. I can be on the board.' Other people are saying, 'You are not really from here. You have no authority to speak to the land.'

CHAIR—The Reeves recommendations argue for that sort of model—that is, long-term residency should be given rights to help manage and administer and make profound decisions about the Northern Territory Aboriginal land. He is arguing that that holistic model of community and society should be followed a la the Queensland and New South Wales statutes. Am I right in understanding that?

Dr Sutton—He seeks to add it to the existing traditional affiliation basis of connection, yes. Therefore, you would have two principles, which are fundamentally opposed principles, trying to exist in the same financial, political and administrative space. That is also a recipe for a lot of conflict because the people involved in competition would not be just different people from different families, which is what we have now—different tribes or different

regions. What you would add to that existing mix of fundamentally traditionally behaviour is another factor, which is that people would be coming into the competition stakes from two quite different legislative positions, if you like, one of which was in dissonance with the other.

Who would use the residence base most efficiently? Those most likely to engage in economic migration who have literacy skills and so on. We already see—it is already documented; I have seen some material on this, which is a bit anecdotal, and I would like to see more material on this—some serious economic chain migration happening, as has happened in other parts of the world. I am not here to say that I think those people should not be moving; I am here to say that I would confidently predict that the existing traditional landowners of those areas, when confronted with the consequences of accepting residence as a basis for equal rights in political control and authority and financial control, would be horrified.

How many people can move to Gove from Queensland? I would say quite a lot quite quickly. How many people are likely to move into the Tanami Goldfields area, assuming they keep finding gold? How many people are already moving to the Mutitjulu area, where there is a good living to be made, where positions are earmarked for Aboriginal people but not necessarily for local Aboriginal people?

CHAIR—If that, accepting what you are saying, is going to continue to be the case—and it may well be; I have an open mind and I am intrigued by the whole challenge of it all—and by some magical stroke of the pen the laws and statutes and controls that are presently in place in the Northern Territory under the various pieces of legislation, other than preservation of the law to allow future claims for land to be made, are left intact, in respect of the land that is already vested, that has been hard fought and won, the ownership is clear. It has been established as a matter of law. So why not allow the Aboriginal owners, from here on in, to make their own rules in relation to how they will administer and control—have guests or not have guests, have long-term residents or not have long-term residents? Would that general proposition cause you to feel great horror and dismay or would you think that that is probably a natural progression from the fact that they have fought for their land—they won it after a lot of hard fighting? Why is white man continuing to have some form of statutory overlay on this?

Dr Sutton—This would be to peel back even further from the Reeves review. It would delete some of the main planks of the Reeves proposals.

CHAIR—I am not actually thinking of the Reeves report. I am trying to conceptualise and look to the future. Like anybody else in Australia, they own their land. Why is it that we have all these laws and regulations that impose on the Aboriginal people a model of management and administration? Why do we not just say, 'You could form your own companies, cooperatives, organisations, and administrative bodies to manage and control in a collective fashion or individually, if that is what you want to do, the land'? What is the basis for maintaining the argument that there should be continuing intervention by these statutes?

Dr Sutton—That is a complex and delicate area.

CHAIR—Let us face up to it. Let us talk about it. No pulling punches.

Dr Sutton—We certainly do not take that approach to ourselves as non-Aboriginal people. We do not say, 'Mr Packer, you own a large proportion of the Northern Territory. We will leave it to you to work out how the tenure system works. We will leave it to you to determine what happens if you die intestate. We will leave it to perhaps the local neighbours to sort out with you what happens when you die intestate, that is, with your descendants.' We certainly do not leave it to the manager of Newcastle Waters to stock the land as heavily as they might ever want to. We have rules about that. In relation to mining tenements, you have to develop a certain amount each year or each five years in order to keep your lease and so on.

I am the last person to support endless controls over everything. That is one of the reasons why I do not usually have a job. I prefer to be independent of universities and their byzantine rules, some of which are crazy. But in this context we are not dealing with a settled situation; we are dealing with many people who have had between 20 and 100 years, depending on the region of the territory, of a fairly disturbed experience in terms of the impact that happened to their old law, if you like, and their reconstitution of themselves under modern conditions. The old stabilities, certainties and autonomies that were offered by their old system do not obtain any more. Many aspects of them keep going but people had a stateless society. They had to look after themselves. If they got into conflict they had to settle it between themselves. There was no external authority. When major trouble brews, people frequently want the police to come and intervene. They will seek something like apprehension orders for violent men and so on. Aboriginal people themselves seek out the state's intervention frequently.

CHAIR—I just want to make it clear that I was not arguing in that thesis that the laws that generally protect society and control and order society should be repealed in relation to the everyday life of people living in these areas. I was not suggesting that. I was confining my questions to the concept of: they have got their land now and they have won it after hard fighting and difficult times, so why is it that white man is still imposing some form of management system through the parliament? Why couldn't the people who are owners now be given the right to make their own arrangements about how they would form their future management structures and whatever?

Mr SNOWDON—If the other people on the panel want to comment on any question, they should feel free to intervene.

CHAIR—Yes, please do.

Dr Sutton—I am just worried about the time. If we are stuck with 5.30 p.m., then we may be getting very tight.

CHAIR—We will go to 6.00 p.m. You might solve our problem in giving this answer.

Dr Sutton—I doubt that very much.

CHAIR—We are allowed to hope.

Dr Sutton—There is a lot of talk about self-management which sometimes means that any appearance of self-management will do. That is what I would call the rhetoric of self-management. In other words, so long as there are some indigenous faces behind the desk in signing off at the end of the papers that is self-management, but self-management by what proportion of the people and on whose behalf? People who live under either traditional Aboriginal law or its current descendants in most parts of the country are under very strong obligations to look after their families, to be generous to their families, above other families if they have the ability to do so. That means, in terms of appointments to council jobs, field officer jobs or whatever, there is an underlying obligation for a large number of people to favour their own family and their in-laws.

People do not have a culturally traditional notion of the common good at that level. I think there is a deep-seated notion, if you like, of the common good which comes out through ritual and religion and a number of other things, like the ethic of generosity and the ethic of cutting down the tall poppies for that matter. But it is perennially true that, left to their own devices, the smaller the organisation the more subject it is likely to be to what is effectively family control by one or two families, leaving a lot of other people out in the cold—what I call the little people, that is those less powerful people, the ones who do not have big families and whose dreaming tracks are not close to the council office and so on. There is a whole set of ways of being a second class citizen. Being an immigrant is another one. I am not cutting out those with residency only status.

Having brought the disruption and the population redistribution and the shattering of the old ways, the British empire—or at least its current descendent, which is where we are now—I think has a fiduciary duty, an obligation, to prevent those elements of tradition which may be now out of kilter and easily unbalanced by modern conditions from wrecking people's lives and causing endless strife. That is pretty much a British empire, white man's burden, view of things in some ways, but I hold it.

CHAIR—So you think the Aboriginal people, without being disrespectful, if left to their own devices and their own traditional wars, customs, religion and tradition, would not be able to manage their own properties in the future without the assistance of some legislative framework to preserve and prevent abuse, inequity and the like? Is that what you are saying?

Dr Sutton—If you are seeking to avoid an ICAC inquiry of the sort that has recently been conducted in New South Wales and similar kinds of things repeatedly happening, if you are seeking to avoid the concentration of wealth that the tax system, for example, imposes on all of us in this country, and which Mr Reeves is keen to see as a reform to the current Land Rights Act, then you have to confront the possibility that the only way to do that for the foreseeable future may be to have legislative constraints on the accumulation of power in the hands of a few.

CHAIR—That would happen under Aboriginal customary law. Is that what you are saying?

Dr Sutton—I think it is a fudge to call it a manifestation of Aboriginal customary law.

Mr SNOWDON—We are not talking about greenfield sites here, are we? We are talking about areas of Australia that are governed by statute law. Regardless of whether it is a vacant block of land, Aboriginal people will never have the rights to control what happens underneath the land in terms of minerals, for example.

Dr Sutton—Yes.

Mr SNOWDON—So you just cannot see or foresee a circumstance where you have some quarantined group of people who have an absolute right to determine what happens on their country without external influences. It just cannot happen.

Dr Sutton—No, I was not saying that.

Mr SNOWDON—But that is what was being suggested. Alternatively, they are then subject—and this is a real issue—to the political interference of other bodies with statutory responsibility over some of those laws, for example, the Northern Territory government.

CHAIR—Keep going. I find the discussion very interesting.

Dr Sutton—I would like to draw on the expertise of Dr Martin who knows much more about some of this than I do.

Dr Martin—I do not think that is the issue, but it is rather just adding a point arising from your earlier discussion, Chair, about intervention by government and by the state. I just wanted to bring up some points drawing on what is in the submission about the scheme in the Reeves review concerning the regional land councils which bear on your question. In particular, the matter which I think has, to some extent at first glance, a deal of attraction to it is the proposal that each regional land council will determine what are the Aboriginal traditions of its region and then will, in essence, manage the Aboriginal lands in its region according to those traditions. At a very broad level, that might be something that we would support.

However, it is of fundamental importance here that the distinction that Dr Sutton alluded to between people who have rights in country under Aboriginal law and tradition and those who, for various historical reasons, live there is maintained. The Reeves review collapses these two categories so that these regional land councils have a potential membership which is drawn both from Aboriginal people who have rights in the area under law and custom wherever they may live and those who, for historical reasons, are living there. Yet these regional land councils also act as trustee for the Aboriginal lands in their region, and in that capacity they are holding those lands on behalf of Aboriginal people with traditional affiliations to those lands.

So the kind of disjunction that Dr Sutton talks about in the submission between Aboriginal tradition and the strong emphasis that it gives the primacy to relations based on law and tradition and these other rights that arise just through living on a country are collapsed in a body which nonetheless is, again under the Reeves review, expected to make decisions on the basis of what it considers to be Aboriginal tradition. The disjunction there in part is that the same body which combines both people with traditional interest in land

and people who do not have those but happen to live there is the one who has to determine what the traditions of the regions are. Right at the very core of these bodies there is this potential for conflict, as Dr Sutton mentioned, and this complete disjunction between different principles built in. Part of what the submission from the association is drawing the committee's attention to is precisely the ramifications of this policy.

CHAIR—I think you are doing a wonderful job in highlighting it. That is great. It is very helpful to me. As Chair, I have to try and push my mind to further frontiers. As I understand your excellent submission and advice, you are saying that traditional Aboriginal law should not be seen as frozen, that there are many occasions in the life of Aboriginals in this county where changes have occurred, where accommodations occur and regional arrangements are made, and respect is given because of other things. The challenge for us in this inquiry is to try to do our best for Aboriginal people for the future and to question publicly, without wanting to be taken to mean that that is what I want to happen, the justification for an overlay of regulation and law controlling the way in which Aboriginal people's property is to be managed when no other owners of land in this nation are subject to the same overlay.

My quest for equality of law is a passion that I have. I might be being naive. So I am questioning whether, looking into the next millennium, there is justification to have statutory frameworks—either Reeves model or some other model or the existing one. When people have already been established as owners with lots of history of thousands of years of managing issues and affairs, why not ask them if they would like to have it all in their own hands again, for whatever model they would like to develop? That is the basis upon which I am exploring this with you.

Dr Martin—Returning again briefly to the point, the Reeves recommendations would potentially have a fundamental result in how land is owned and who indeed has rights in those Aboriginal lands. It would change it from the group who has rights and interests under Aboriginal tradition to the regional community who lives there. That, in virtually all regions of the Territory, will be a different set of people. So we are looking at changing who has rights and interests in land.

I would ask the committee to reflect on the fact that, at some levels, there is a not dissimilar parallel in quite recent history when, as a result of the Wik decision, pastoralists in some areas came to believe that what they had understood as their particular rights and interests in their properties might, in fact, have to include another set of people who, from their perspective, prior to that had no rights. I am not asking the committee to make a value judgment, nor am I making one myself, but the committee will remember clearly the responses of those pastoralists. Now reflect on the people who feel, under Aboriginal law and tradition, that they are the owners of existing Aboriginal lands at the moment. Reflect on what the responses of those people might be when, as a result of legislative change, another set of people who, under their laws, have no rights in their lands all of a sudden do have rights. Perhaps you might begin to see the passion with which this might be received.

CHAIR—You would go right off the planet. My point is that, rather than us making a decision and—even with the best of goodwill, faith and the wisdom of Solomon—making recommendations, why do we not back right off and say, 'Let the traditional owners of these

lands develop their relationships with the other Aboriginal people in their communities'? In other words, why don't we bring in some laws to facilitate that process, but let the final form of whatever is decided be developed by the Aboriginal people and not imposed by the parliament? That is the point I make.

Ms Smith—I think one of the fundamental questions you are asking is that at what level in Aboriginal societies does self-determination rightly lie? If there are these very small, localised groups around the Northern Territory, why is it that they should not simply get on with the business of representing and managing themselves with respect to land use and management issues?

Certainly, in the recent history of Aboriginal organisations, there has been a plethora of incorporations. There are now thousands of incorporated associations around the countryside, specifically because small local groups of people are trying to have an organisational level of representation. More and more that massive trend—Dr Sutton referred to these incorporated associations at one stage as being the new tribes—is unworkable financially. Administratively, it is difficult to maintain interaction with that local level of organisation. A problem as well is that the level of land use and management is not cut off from the rest of the world.

These small groups in communities need to interact on a fairly constant basis with a number of outsiders, whether they are resource developers or government agencies. They are sometimes left vulnerable when they are operating at the level of a small family, sitting in a community, having dozens of people visiting them every week. One of the issues then is: how can one establish an even playing field in terms of the process of consultation and negotiation? My experience is that it does not necessarily happen by leaving small family based groups within communities to organise themselves with respect to negotiation issues. The ongoing relationship into the future between current traditional owner groups and other people resident within the community might perhaps be better dealt with by formalising agreement making mechanisms within the community that traditional owners can implement with respect to those residents.

CHAIR—Such as what Reeves suggested, that a subleasing arrangement should be legislated for.

Ms Smith—Perhaps such as some of the agreement making mechanisms that are in the native title legislation.

CHAIR—Although I am not saying you are being so, if I said this, I would be accused of being paternalistic. If I said what you said, because I have not got your professional reputation, they would say, 'Well, there's Lou Lieberman being paternalistic, saying that Aboriginal families are not able to make their own arrangements to be properly represented, to negotiate and to put in place measures to deal with the interface of society and others in the community.'

Ms Smith—I will probably be accused of the same.

Mr SNOWDON—Is it not fair to say, though, that we are dealing with issues which go far beyond the realm of experience of many people, including the issue of technology, including questions of literacy and numeracy? It is very hard to countenance that there is any evenness, or a fair playing field, as you have described it, when you have a resource company depositing itself in north-east Arnhem Land or the south-west or far north-west or anywhere in the Northern Territory where you have people who have never been to school, for example. These people are then asked to sit down and negotiate an access agreement with people who want to explore on their land. It is simply not feasible.

Dr Sutton—I am afraid there is an urban mythology around that, if everyone is now equal, then everyone can do everything that everyone else can do. This is simply not the case. I cannot throw a spear with a woomera, not properly. I cannot see mullet under two feet of water at sunset, but I know people who can. Those are skills that are lifetime skills. It works both ways. If you cannot even speak English—there are still people in the Northern Territory whose English is limited to about a hundred words, as far as I can tell—

CHAIR—There are kids coming out of year 12 in the Northern Territory that cannot speak and write and read English.

Dr Sutton—Yes, literacy levels seem to have gone down, if anything.

CHAIR—It is a shocking situation.

Dr Sutton—Some of the best speakers of English in the Northern Territory are now 45 to 60. That is true in Cape York. What the parliaments have to face, in the end, is what the rest of liberal democratic Australia is going to say if you go down the laissez-faire pathway and say, 'We will just hand everything back to people. We will go away. We will lock the stadium and we will come back in a year and see who has climbed to the top of the greasy pole.' That is what you are saying.

CHAIR—No. I would not be a ruthless as that, Peter.

Dr Sutton—But somewhere between that and the devolution of this incredible machinery that people work under lies the balance. A colleague has given me another point in relation to this. We are talking about communal title here, not private ownership.

CHAIR—Yes.

Dr Sutton—It is very much like corporate ownership. The group outlives the individual. The group is greater than the sum of individuals. Each group, in a sense, has its own country. Even if it is a small group with two elderly people left or another group with 150, this is basically like an aristocratic system, not a meritocratic or democratic system, of landed interests. The difference from the European aristocrats is that everyone is an aristocrat—every little family has got country. You can have one little old lady left and her say over her estate must be respected in the cases I am thinking of. There are cases where people try to use numbers to dominate.

But the wisdom of the old system was that it ensured that everybody was from somewhere and that, ultimately, each group had meaning in the system. You did not miss out song verses just because some group was politically weak and inarticulate when you did the ritual through their country. That was part of the business. If you had to do the business, you did it on their behalf if they were incapable. It is a compassionate system at that level. If you throw it into a modern administrative context though, and then say, 'Just keep doing that but now do it with Exxon and CRA and Club Med,' what you are saying is: 'Whoever can rise out of this group who can deal with Club Med gets the guernsey.'

There is a book called *Emergent inequalities in Aboriginal Australia*, published in the eighties, which looks at some of these issues. It was edited by Professor John Altman. It is not as though this is a new issue for anthropologists; we have been grappling with this now since the early eighties, at least. The problem is that when equalities that emerge are, in a sense, fostered by the new administrative and legislative conditions, as I said before, I think the state has a right and a role and an obligation to hang in there until things change significantly.

CHAIR—But will it change, Peter?

Dr Sutton—Aboriginal tradition is certainly not inflexible; it has already changed and is changing. It is actually accommodating these formal bodies in quite curious ways. In a publication last year, I drew attention to the fact that insufficient research had been done on the mesh between a formal, modern corporate organisation and what you might call an informal, ongoing family and other organisation. The two mesh more and more closely and, to some extent, can even become confused in people's minds, or at least amalgamated for a while. Somebody—actually it was me—said, 'Who won the Cold War? The Russians did.' Everyone's identity now is becoming, if you like, a bureaucratic slot. I think that is horrifying, but it is also part of the reality of things that we do get a meshing between what you might call customary groups and modern corporate groups that have to deal with awkward things like money and railways and so on. The difficulty is if you lay the seeds for further inequality to emerge at a time when people are still reeling from the impact of the first big hit.

Mr QUICK—In your brief summary, Peter, you mentioned the need to further decentralise land council activities. Can you expand on that? Currently we have got four. Reeves wants 18.

Dr Sutton—There are many more branch offices too, which perform some decentralised functions, but they are very small and they do not have the sort of expertise that is needed for dealing with outside organisations, complex legal issues and so on. The problem of remoteness from the central offices of the NLC and CLC, in particular, is obviously a source of some complaint. It is difficult, at times, to distinguish the complaints from other political factors, which we have already discussed briefly.

Mr QUICK—Last week we were at Docker River and also Oak Valley, trying to travel to either of those by road at this time of year, even by light aircraft.

Dr Sutton—It is extremely difficult. I have lived in those places for long periods, not the ones you have mentioned but others with similar problems. In western Cape York, the wetlands are legendary and communications are shockingly difficult. You can never overcome those facts, which is the very reason why there is a land rights act, if you like, because, if it were like Yorkshire, it would have been full of Yorkshiremen and there would not be any land rights act. The land councils themselves, as I understand it, are pushing more towards further decentralisation within their limited budgets. People who think they have too much power already might say, 'If you add two or three major branch offices to the existing land councils, isn't that just building up their empire even more?' I will not comment on that because that is the political side I try to refrain from because I am not here on those grounds. I am not here to talk about how you interpret it politically so much as what are the practical realities for people.

I have noticed over many years that the people, particularly between, say, Daly Waters and Tennant Creek, often felt very much left out of things. They were too far from Darwin and Alice Springs. They were the last people with corrugated iron dwellings on the ground that I saw living close to the Stuart Highway. No doubt there are others a fair way away. They got a housing association in Elliott in the 1970s, I think, but for years those people were at the end of the line. That is the daily reality of poor servicing because of isolation. Having 18 even smaller land councils with only one central office and that one office, presumably, in one place, would be to compound that problem tenfold because the people in Elliott would be just as far from Darwin as they have ever been, but the people at Kalkarinji and further south would be a long way from the centre.

Mr QUICK—To my mind it is a bit like when I was growing up in the Mallee in Victoria where there were three or four branches of banks in a little town called Rainbow that was 300 kilometres from Melbourne. Now we have got huge banks, and they have closed all the offices and there is a sweep-back to credit unions or some other form of banking going back in to represent the community because the community sees the need. We either come up with a recommendation to say, 'Leave it at the status quo,' or 'There is some sort of improvement, and here is the model.' Do you have some ideas of some structure in the Northern Territory?

Dr Sutton—I am not an administrator professionally, so I have tried to restrict myself more to things where I have some special reason to be here.

Mr QUICK—I agree with what you are saying, that some people are saying, 'The bank branch is now in Darwin or Alice Springs or Katherine, but the rest of us are all forgotten. We appreciate what they do when they are arguing native title, because Oak Valley can't adequately represent themselves financially in the great native title debate, so we'll give that to somebody else, but we still want a whole lot of things back in our own community.' So how do we come up with that model as part of that mainstream?

Dr Sutton—It is partly a matter of resources because, if you had enough money, you could set up maybe six or seven more large regional offices that would help to reduce the problem. There is a critical mass issue here, unless you get a certain sized complement of staff. Handling royalty calculations, for example, is a very difficult and delicate operation in relation to the anthropological research that is required in an ongoing way and, even though

the claims are settled, they are required for consultations constantly, for legal advice and so on. You have real problems getting a sufficiently modern mini-bureaucracy in one place if you only have six people. They are run off their feet. Their stress levels would go through the roof, and you would find that keeping them after their two years standard burn-out time would be impossible.

Mr QUICK—We have got the Chairman of the House of Representatives Committee on Family and Community Affairs here, Mr Wakelin, and I am also on the same committee, and we have to come up with recommendations about how to solve problems in indigenous health. We are seeing the same sorts of problems about how you provide medical services to those remote communities yet have them be part of the total NT health structure, or the South Australian, the Western Australian or the Queensland health structure. There must be some workable model where you link the smaller cogs into the bigger cogs and not have this friction where, for example, in the goldfields, you have multiple internecine tribal claims and counterclaims within groups and subgroups.

Mr SNOWDON—They are fixed. They no longer exist.

Mr QUICK—They did initially.

Mr SNOWDON—That was a fault of the act.

Dr Martin—In relation to your question about Mr Reeves recommending 18 separate regional land councils and whether there is an alternative, firstly, I think it is critical to understand that these bodies sit in a very real sense between Aboriginal society and particular Aboriginal land relations and the wider system—its land relations, its economic system and so forth. So they have to take account, in a very difficult way, of the principles of the two sides of that difficult equation.

From the point of view of the wider system, and reflecting on your analogy about the smaller banks in country towns being withdrawn, it is the question of things like economies of scale, the costs of servicing remote areas and so forth. Although this is not directly a part of this submission, it relates directly to it. There are good arguments that economies of scale are a fundamental problem with the Reeves proposal to have 18 quite distinct and essentially autonomous regional land councils. It is a little like having a separate bank, not simply the Bank of New South Wales through the Wimmera region in each town but rather having a separate bank in each town. Quite clearly, the economies of scale and so forth would not allow it. There are good arguments that the same kinds of equations in relation to economies of scale for staff and so forth provide compelling arguments against distinct separate land councils.

Equally, however, drawing on the kinds of matters that Dr Sutton talked about, there are good arguments from the Aboriginal side against having quite separate regional land councils in the way that Mr Reeves recommends. His recommendations are based fundamentally on an assumption that Aboriginal society reproduces at this regional level, that that is the basic level at which land ownership is held, at which political decisions are made and so forth. Dr Sutton's evidence and the submission from the association, I suggest, provide compelling argument that that is fundamentally wrong.

Core dynamics in Aboriginal systems are based far more on the kinds of groupings that Dr Sutton has talked about, perhaps in clans or family groupings—it will obviously vary from region to region. In other words, it is far more local rather than regional where meaning is derived, even though that meaning itself is part of a wider system. What this means is that, from the administrative side—the European system's side and, we submit, from the Aboriginal side—having distinct, separate, autonomous land councils is likely to fail.

However, there are alternatives. It would be possible, for instance, with relatively minor amendments to the current act, to allow for something which cannot happen under the current act; that is, to have certain of the functions and powers of the existing larger land councils, particularly the NLC and the CLC, to be devolved to regional councils which would still come under the umbrella of these larger bodies and which would perhaps regionalise decision making about core matters, especially land management, but nonetheless preserve this crucial dimension of economies of scale, staff—the kinds of things that Dr Sutton mentioned—the lawyers, the anthropologists, the specialists, the land management staff who are going to be needed in the future and so forth.

So rather than having distinct separate bodies abutting one another but not linked, except via this NTAC proposal in a rather loose fashion, you could actually have far more of an umbrella system with the capacity to devolve in a flexible way to sub land councils. So there are alternatives. These are not canvassed in our submission, for good reason. But there are alternatives which the committee could look to which achieve some of the aims of providing more autonomy at local and regional levels but do not suffer from the major policy disadvantages of the Reeves recommendations.

Mr QUICK—Would they be acceptable to the indigenous community as an alternative, apart from the current structure?

Dr Martin—I must emphasise that we are not here to speak for the indigenous community.

Mr QUICK—I realise that.

CHAIR—What is your instinct?

Mr QUICK—In Dr Sutton's great dissertation here, can the explanation of indigenous society fit into this? That is not going to be something that is coming from way out of left field somewhere.

Dr Martin—You asked about my instinct, and I will ask my colleagues if their instincts are the same. My instinct is that that kind of proposal—most especially if it was not also bringing in these questions we talked about earlier of collapsing the traditional and the residential kinds of categories—would be likely to gain support. It would address many of the issues that people are raising and their concerns about what they see as control from a remote bureaucracy, whether it be Darwin or Alice Springs. The concerns about decentralising what is seen as control by the existing larger land councils are real, and the submission from the association recognises that and supports the notion of decentralising by

some means the existing larger land councils. However, we also submit that the proposal in the review by which this should be done is simply untenable. This submission argues from the Aboriginal point of view. There are, however, good reasons from the wider administrative perspective.

Dr Edmunds—I will add that a central point we want to make that is made in the submission as well is that, whatever system is developed, it must be based very strongly in Aboriginal traditional law and custom, and our concern with the recommendations of the Reeves report, in relation specifically to the setting up of the 18 councils, is precisely that it cuts right across fundamental principles of social organisation in Aboriginal societies in the Territory.

CHAIR—I agree with you, and I will add that it should be designed in such a way as to enhance the partnership between the Northern Territory Aboriginal people and the non-Aboriginal people. So it has to be one that is compatible and complementary as well.

Dr Sutton—I think the emphasis on 'complementary' is very important. To try to make a monolith out of the way land is managed in the Northern Territory and the way community government operates and everything else would be to put all the eggs in one basket, and that is when you ask for big trouble. It is better for people to have opposition from positions of relative strength than for them to be in the win-all or lose-all situation where there is only one pie. That is one of the problems I see in this report.

Mr WAKELIN—Dr Edmunds, are you saying that the small land councils would cut across their traditional Aboriginal organisations?

Dr Edmunds—I think that is the way in which that proposal is put forward in the report. It would do so because it takes as its starting point the interpretation of the landowning group as incorporating immigrants—a residential group that is not part of a traditional owning group. Therefore, to base the development of those autonomous land councils at the regional level on a membership of the region—which absolutely collapses two very distinct and important differences in Aboriginal ways of dealing with land; that is, between those who have proprietary rights and those who may have use rights or residential rights—is to challenge and create enormous difficulties for Aboriginal people.

Mr WAKELIN—Would you be confident that the Central Land Council and the Northern Land Council would have the aforementioned rights—that is, the non-residential rights and the traditional rights? Would you be confident that the current structure does that?

Dr Edmunds—I think the experience of the land councils, which has been built up over 22 years since the Land Rights Act was passed, plus the fact that the councils are constituted by Aboriginal people who, in many cases, are traditional owners of particular areas in the Northern Territory, puts them in a position of understanding the importance of local needs as well as general needs.

CHAIR - A division has been called in House of Representatives. We will resume the hearing after the division .

Proceedings suspended from 5.53 p.m. to 6.06 p.m.

Mr WAKELIN—Prior to the division I was seeking some reassurance on the current structure of the Northern Land Council, the Central Land Council and the others too if you have a view. Is there stable representation of traditional owners on those councils? I think you believe there is.

Dr Edmunds—I will just go back a step in response to that, and this is not an attempt to avoid your question at all. We need to emphasise the fact that Aboriginal title to land is a communal title and, therefore, the bodies that are set up to help the management and to provide representation must take that into account. Also, I think a point that we perhaps have not made clearly enough—and the committee may be aware of this—is that the land councils themselves do not make decisions about what happens on land that belongs to traditional owners. There is a process of consultation and informed consent.

The decision is actually made by the traditional owners, although it may be articulated and presented at the end of the day by the land councils—which, as I was saying before, do have representation broadly from the regions, whether it is the Northern Land Council, the Tiwi Land Council or the Central Land Council, and so on. That is a really central point. In fact, the way in which the land councils are set up reflects in a very fair way the spread of traditional ownership and the recognition of traditional ownership under the Land Rights Act. One of our problems with the Reeves report is that it actually does away with the provisions about informed consent in some of these areas. So you would actually have these autonomous regional councils made up of a body of regional population making decisions about country, which would be quite contrary to Aboriginal law and custom.

Mr WAKELIN—Do you accept that it is based on the structures already in place—that is, the subgroups in the Northern Land Council and the Central Land Council?

Dr Edmunds—Which subgroups?

Mr WAKELIN—Aren't the other 16 councils part of the Northern Land Council and the Central Land Council? Aren't they already within the current land council structure?

Dr Martin—Are you talking about the current situation where the larger land councils have set up regional subcommittees?

Mr WAKELIN—That is right.

Dr Edmunds—I think the issue is that the process of decentralisation has already started. This meets some of the concerns of people at the regional level. Diane was going to say a little bit more about that process of decentralisation and how it might meet some of the concerns that have been expressed.

Ms Smith—I would like to make a couple of comments about the notion of decentralisation and the different models that we seem to have. Again, I am certainly not speaking on behalf of anyone other than the Anthropological Society. In my practice as an anthropologist, I have been involved in reviewing a number of Aboriginal organisations in the Northern Territory and have participated in the organisational review of native title representative bodies.

I think we have two kinds of decentralisation models. In train at the moment in the land councils in the Northern Territory—which seems to have progressed to a certain stage—is decentralisation to regional offices. It seems to me that that decentralisation might be called something like 'linked decentralisation'. There is still a centralised coordination, but it is firmly premised on something that is written into Aboriginal law and custom, which is the primacy of traditional owners in terms of being the landowning and decision making group. It may well be that that linked decentralisation model, perhaps in terms of changes to the legislation, could be encouraged in a statutory capacity to further delegate from the centralised land council some of the more critical decision making powers to that regional level.

The key difference that I see in terms of that model that we have got in train and the one that Reeves is putting forward is that the land council's decentralisation gives primacy to traditional owners. It has a statutory protection of informed consent and a requirement to consult with peoples in areas affected. The Reeves model of decentralisation gives us autonomous regional offices based on a regional population that combines traditional owners with the permanently residing Aboriginal population within that region, effectively neutralising the capacity that you, Chair, were asking about earlier on about how one passes effective decision making control down to that traditional owner level. I would argue that the Reeves fully autonomous regional Aboriginal population decentralisation model certainly will not do that.

Mr WAKELIN—I just want to get this very clear. Dr Edmunds was saying that the model that is currently used by the Central Land Council and the Northern Territory Land Council is different from the one that Reeves is proposing. My understanding from the report is that the nine regions of the Central Land Council and the seven regions of the Northern Land Council are precisely the regions on which the current system is based. I am trying to understand the difference between what you might propose, what currently exists and what I understand Reeves to be saying.

Dr Edmunds—I think the issue is that regions as defined may be the same, and I leave myself open to correction on that.

Mr WAKELIN—Thank you. You had me very worried for a moment. I just wanted to be clear on that point.

Dr Edmunds—The regions may be the same, but the ways in which decisions are made about land within those regions are very different.

Mr WAKELIN—Yes.

CHAIR—The base of decision makers is altered significantly.

Dr Edmunds—Yes, totally.

Mr WAKELIN—And that comes back to traditional.

Dr Edmunds—Or this regional population.

Mr WAKELIN—Or those who are living there—the community criteria, if you like. Those who are, if you like, the Johnny-come-latelys and coming in maybe even 200 years later. I am trying to pick the difference between what Reeves is saying and the current system. Reeves is very specific. I do not think he is being too arbitrary in his comments. He is just saying—and picking up your own submission—perhaps there is room for greater decentralisation, there is room for greater respect for the various groups, and perhaps those 16 regions could be seen as a base, accepting the point you have made about who are the traditional owners and who are not.

Dr Edmunds—And how the councils are set up to reflect the decision making processes of the traditional owners within those regions, which is what the land councils, through the current process of decentralisation, are attempting to achieve.

Mr WAKELIN—I want to be slightly provocative and put this concept to you: I have never seen a more white fella structure than the Central Land Council and the Northern Land Council, if I can put it that way. Considering the thousands of years of history in the various groupings, it seems to me it is a very white fella structure. I just put that before you.

I will share with you my experience from my own electorate of AP lands, which you would, of course, all be familiar with. The greatest comment you will get from the smaller communities or all the communities is, 'AP lands are telling us what to do all the time. We want to do this and we can't do that,' and so it goes. There is always that tension and I think you pick it up in your paper.

I would appreciate a comment about how you might see it evolve. We are here to make the best recommendation we possibly can, so I think your submission has been invaluable. In relation to the tension between the smaller groups and the larger groups, could you talk about the dynamics? Perhaps you could comment on whether the Northern Land Council and the Central Land Council are white fella structures initially.

Dr Martin—I want to make some comments, and I am sure my colleagues will because you are raising very complex issues. The first point is one that has been made here before and that is that these bodies—whatever they are, whether they are Mr Reeves's autonomous regional land councils or, indeed, the existing NLC and CLC—of necessity sit between two systems. Therefore, at whatever scale they are based, whether it is the whole of the Northern Territory, whether it is the Top End for the NLC, or whether it is one of the regions, the same dilemmas will be confronted—because there are two quite fundamentally different systems having to engage through the bodies.

Mr Reeves's proposal to have quite separate land councils which are autonomous is predicated quite explicitly on assertions that, for instance, there will be reduced conflict, increased self-determination at the regional level and increased autonomy. In fact, as the submission from the society demonstrates, irrespective in a sense of the level at which you are looking and irrespective of the geographical area, the same dynamics are going to be working. In other words, if we go to one of these regions, we are not going to find that all of a sudden there are no conflicts of interest, that there are not differing perspectives as to who has rights and interests in a given development—for instance, the board of a regional

land council will encompass the full diversity of traditional land interests in that region because of the nature of Aboriginal society.

Mr WAKELIN—I accept all that, Dr Martin, but is that sufficient reason to not give Aboriginal people greater autonomy?

Dr Martin—The society is certainly—

Mr WAKELIN—I accept the conflicts in the current structure or a new structure. There always will be conflicts; I accept that. But is that sufficient reason to deny those who may wish to have smaller land councils?

Dr Martin—The society is absolutely not arguing against increased Aboriginal autonomy; in fact, on the contrary. What we are suggesting in that submission is the basis on which autonomy is understood within Aboriginal society. The consequence of those arguments is that, whether one is dealing at a broad level, as with the NLC or the CLC, or at a more subregional level, as with the existing committees of the regional councils or Reeves proposed councils, the core question is how decisions are made over land, land management and so forth by those who have rights under Aboriginal tradition. In other words, the core question is less to do with the size of an organisation and with who happens to be represented on the board and far more to do with the processes by which the true autonomous units within every society—

Mr WAKELIN—The local descendant group is the terminology.

Dr Martin—Sure, it is far more to do with their views on their property rights, which is ultimately what we are talking about, being incorporated in the management of their lands. That is where the point Dr Edmunds made earlier about the informed consent provisions is of such fundamental importance, because they ensure that those who have rights and interests under Aboriginal law have a statutory protection for their rights. We would suggest that is independent in the sense of the size of the land council involved, and that Mr Reeves's proposal to remove that and to replace it with something which is rather far weaker—

Mr WAKELIN—They are two very distinctive issues—the issue of size and the issue of which particular group, a local descendant group or the broader community group. They are very distinctive. I thank you very much for that. We know that Aboriginal people have a great degree of poverty. We know all those issues. As Mr Quick mentioned, we are currently looking at indigenous health. There has not been a parliamentary inquiry for something like 25 years to try and draw it together—it is an onerous task—so we are becoming more acquainted with those issues.

What I would like to try and draw from you, if possible, is some understanding of the economic base which may assist to lift them out of poverty and take some steps forward in terms of improved health, et cetera, and the ability to negotiate those issues of access to land for economic benefit. Mining is an obvious one. Fishing is another one. Could you explain what you think is an appropriate economic interface between our responsibility as a parliament and the responsibility of Aboriginal people to try and address this issue of

poverty? From an anthropological point of view, how do you address the fundamental clash of our cultures?

Dr Martin—I think I would return to the point that Dr Sutton made earlier, which is that there is a range of very complex issues dealt with in the Reeves report and what we are trying to do here in this submission is present a perspective on the particular anthropological issues that are raised in the report. I will just add this, though: some of us are actually appearing in another guise before you next week, and that precisely will be one of the focuses of what we will be submitting. The only other thing I would add at this point is that, as I said, you raise complex issues, but the Reeves report acknowledges that development of Aboriginal lands is unlikely of itself to provide the kind of economic advancement which is needed to address the broader socioeconomic issues that confront Aboriginal territorians.

CHAIR—Urgently needed.

Dr Martin—Urgently.

Ms Smith—On the one hand, we have economic disadvantage, and I do not think it is any mystery as to the issues that need to be rectified and the areas that need to be improved—employment, education, training, self-sufficiency, enterprises, business development. I think the critical issue in terms of the Reeves recommendation is one question: can the Aboriginal Land Rights Act suitably be regarded as the vehicle by which economic disadvantage can be ameliorated in the Northern Territory? To what extent has it played that role, and to what extent, quite rationally, can it be required to play that role?

Mr WAKELIN—Or should it?

Ms Smith—I suppose that is what I am saying, yes. I think the other issue, in terms of the economic interface that you are talking about, bringing it back to the issues that Dr Sutton has raised, is that, if there is an interface that can maintain self-determination for Aboriginal people at the local level, then again I think we would argue as anthropologists that it is the right to make economic decisions about one's land that needs continuing protection. Again, I think that right to make economic decisions is fairly situated with respect to, under Aboriginal law in custom, Aboriginal landowners.

Mr WAKELIN—As a preparation for next week, it is said that you are about four times less likely to be granted access to Aboriginal land for, say, a mining operation than for non-Aboriginal land in the Northern Territory. I will stand corrected on the margins on that. Ian Viner, back in 1976, said that he expected that a further 10 per cent of the Northern Territory would be granted to land rights. That actually grew out to 54 per cent from about 25 per cent. So it actually doubled what the expectation was in 1976. There are issues about prospective lands and the future of the Territory and the future of the country in terms of the broader economic base. I cannot dodge that as a politician because I have a responsibility to every Australian as well as to all Aboriginals.

Dr Sutton—I think there was some unresolved matter to do with white fella structures versus other structures which I would like to quickly address.

CHAIR—Yes, thank you.

Dr Sutton—I did not feel that was teased out properly. If the welfare of the non-indigenous economy is a prime objective, if it remains a prime objective under all conditions, then that is one of the reasons why this act was created in the first place. It was not to stop economic activity; it is economic activity principally which drives the steamroller that knocked so many people over in Australia since the colonial era began. There is no secret about that. A massive influx of people, other than convicts who were not very economic, was directly related to opportunities to gain land and income. The rationale of this act, if anything, is to provide a buffer between that kind of old-fashioned impact and the more compassionate conditions that we expect today.

Just going back to the white fella structures and so on, a typical white fella structure is one in which the few represent the many—that is, the many relinquish a lot of their autonomy in order to have the smooth working of a representative system. The best you can do probably in a bureaucratic context where you are trying to reflect another tradition, which is one where really everybody has a say—at least up to a point—is, in my view, that you cannot do away with the separation of powers, that is, in this case the separation of the power to consult and obtain opinion from the power to represent. If you join the two together so that the representatives are also the consulters and the testers of opinion, you lay yourself open to the accusation that this is much more a white fella style of operation. I think that is what the Reeves review suggests, that those who represent also obtain opinion. In fact, opinion is not really required but, if anyone does it, they have the power.

I think the present system is one that involves an enormous amount of effort and skill and often under very tough and difficult conditions—physically and psychologically and socially. The land council staffs, in my view, over the last 20 years have been largely made up of people who were very dedicated to what they do and who will put up with these tough conditions. If you have been to Oak Valley in January and so on, you will know what I am talking about. One cannot discount the dedication involved.

Those people are not likely to try to roll over people and just go out and flog their own ideas. At least the examples that I have seen have been of people being terribly conscientious, working themselves into the ground to be sure that there will never be someone who will put their hand up and say, 'You came and told us what to do,' or 'You just ignored us.' The complaints you hear tend to be more about: 'You didn't contact enough of the right people,' rather than, 'You influenced us or over influenced us,' or 'You went away and made your own decision without reference to us.' I cannot give you figures on that.

Mr WAKELIN—There is a degree of white fella complaint in that, too, I can hear. But thank you.

Dr Sutton—I do not want to go on about it, but I think it is easy to forget how extraordinarily difficult this front-line work is and how really demanding it is. If people last more than two years in these jobs they are doing extremely well.

Mr WAKELIN—We need to acknowledge that. I know that, in terms of the administrators, in terms of various Aboriginal communities, it is very demanding.

Mr SNOWDON—I have got a number of views myself about some of this stuff, but I want to ask a couple of questions. Firstly, is it your experience that, when working for an Aboriginal organisation, when you come in contact with people of authority—generally speaking, in the Northern Territory—they use employment on the land council as a sort of pejorative in terms of how they regard you and other people?

Dr Sutton—It varies. I had someone threaten to rearrange my face on the grounds that I work for a land council as a consultant. And I was told that I was battening off the old people and exploiting people. I had never met this gentleman, and I found out later that he was a case of someone who had grown up on a station to which he could not make a claim because it was not his mother's country. The station was Old Gorrie. He had a real reason for disliking the system because it did not allow his 'life interests', if you like, in that pastoral lease to have any real expression under the system. Am I answering your question?

Mr SNOWDON—You are. What I am trying to describe here is the atmosphere of working for an Aboriginal organisation—to wit, the land councils in the Northern Territory—when you have got an antagonistic and protagonistic government. My own experience, having been an employee at the land council and having lived in the Northern Territory for almost 25 years, is that if you work on anything to do with the land council it is bad. It is only in recent times that that appears to me to have changed. I can recall my own experience, for the want of some advice, of working for the Central Land Council, having attended the Central Land Council full meeting at Kalkarinji, driving back with Neil Andrews—who is, as you know, a lawyer—stopping off at a roadhouse to get a feed and being refused service by the person because we worked at the land council. There is a documented case of a person being shot at.

Dr Sutton—Yes, I know of other cases where people have been confronted with weapons. I have sat with a loaded gun myself—not in the Territory but in Cape York. Yes, the temperature at the local and personal level can be shot up very greatly by things said by people in authority and things that have come out in the media. As soon as you take the lid off restraint and politeness at the top level of society, if you like, for some people further down the tree it is a licence to go out and crack a head or two.

Mr SNOWDON—I will make this comment which you do not need to respond to. We saw this happen last year when the Deputy Prime Minister came to the Northern Territory and called the land councils 'blood-sucking organisations'. It seems to me that was both improper and inappropriate.

I am interested more in looking at the issues which we have got to talk about here, but I did want to make that point because I think there are many people in this parliament who labour under the misapprehension that everything that comes out of the Northern Territory government is correct, when in fact on most occasions when it comes to these issues, it is incorrect. Therefore, a lot of the stuff in this is based on false premises and false hope by those people in the Northern Territory government—and, I believe, by some people in this place—who actually think this is a panacea. I will ask you a question about the panacea. In

relation to the two-tiered structure leading from the regional model described and the Northern Territory Aboriginal Corporation, do you think that peak body has got any relationship at all to Aboriginal traditional decision making?

Dr Sutton—Not as described, and I doubt if any peak bodies like that have ever got very close blood ties to the way things happen out there on the ground. The strength that they have in being connected with the world out on the ground lies, if anywhere, in their capacity to maintain this obligation and to fulfil this obligation of contacting people regularly, obtaining informed consent, knowing the politics. You cannot just interchange people. The bigger the organisation, the higher the turnover, the more likely it is that you will have a new face every month or two out there asking about getting meetings together and obtaining opinions and so on. Continuity of persons is important. Keeping good persons who are willing to keep doing this is important. High turnover is very bad. People like predicability. They like to know you. They do not have to love you.

Mr SNOWDON—But they have to know you.

Dr Sutton—But they have got to be able to predict you. That is much more important. Backslapping and being cheery and extroverted and so on, you see constantly as a farce. There is no substitute for time.

Mr SNOWDON—Can I ask you—any one of you—to explain your experience of the process of making a decision? Let us say it is a decision about an exploration licence application on a block of land in Arnhem Land or in the central desert or somewhere, and you are employed or engaged as an anthropologist to do the anthropological work on that ELA. How would you carry out the work? What would the steps be in the decision making process which would eventually lead the Northern Land Council or the Central Land Council to make a decision at the full land council?

Dr Sutton—I was involved for most of 1981 in the Jabiluka agreement. I was the go-between for the legal team, the traditional owners and other people. I have had a little bit of experience in that kind of way. Basically, a series of meetings is what happens at the end of the process, but the process that precedes the meetings is the one that counts. With meetings at which decisions are apparently made when the people have not been consulted, more or less privately and quietly in smaller groups over a fair period beforehand, the decisions those meetings make can have no standing at all or they may have some standing. People certainly feel quite free to resile from what has occurred at those meetings, and may do so on the same night, if they feel that the consensus was an obligatory polite activity rather than the reflection of the reality of relationships.

My advice to native title representative bodies and others who have to carry out these jobs is ‘softly, softly’. That is, kitchen to kitchen these days, or camp to camp in some places—coherent small kin groups where some kind of unity of interest and capacity to act together is more or less obtainable reasonably quickly. Then it is the Henry Kissinger role, which is shuttle diplomacy. If major differences of opinion emerge, putting those people into a meeting to sort them out is counterproductive.

Meetings are political venues. They therefore become platforms for the acting out of political forces that are already there before your issue was ever thought of. If you raise a new mining issue and put it into a meeting, all the existing family debates over certain marriages that have occurred or certain paternities that have occurred or whatever, from private to very public business, will be swept into that meeting, quite possibly, and may sabotage the whole operation. The important thing is to have the patience, the time, the skill, and the knowledge of what you might find, to go softly, softly and to proceed. People proceed to consult on important issues without knowing, for example, how the individuals concerned are related: in a kinship based society, that is foolishness.

To know how people are related means you have a set of genealogies on tap—where there has been a land claim that may be the case—and, if you have not, you have got work to do. It is systematic work, it is scientific work, if you like, to do it quickly and reliably. That is what anthropologists are trained for—at least, they used to be. Some might now start to get trained to do it again. There is a shortage of people who can do this. Part of our message is, I suppose, about not alienating the rare species—anthropologists who can and who are prepared to do this kind of work and who are in high demand. I am not here to try and promote more work for us. We have too much. Please, be merciful and do not add to it! We have a duty to our profession to make sure that those skills are maintained and are not abused or discounted.

Mr SNOWDON—Again, anyone may answer this. In your experience you will have observed the changing expectations of the land council constituents toward the land councils. Land management issues have become more important than they were previously. This places demands upon the organisations—that is, the land councils—which previously were not there. That obviously has an impact on budgets, their size and the nature of the bureaucracy and interplays with a whole range of other organisations outside the control of the land council: state and federal governments, state agencies, CSIRO and statutory bodies of all types. A whole range of other issues seems to me to have been emerging over time, particularly as people become more informed about what their other rights might be in relation to the rest of society. Can you comment on whether or not you have experienced that in the way in which the land councils function, the way in which they have developed and the way in which their expertise is now relied upon?

Ms Smith—I think there has been a fairly essential change in Aboriginal people's understanding of the Land Rights Act, what land councils can do with respect to various communities and taking instructions and representing them. I worked in 1982 as an employee of the Northern Land Council, as an anthropologist, establishing their register of traditional owners. At that stage I think there were just the beginnings of understanding about what land rights were, what traditional ownership meant. There was enormous jockeying for position with people being frequently called upon to participate in meetings for a wide range of stakeholders.

I think since then Aboriginal people have become extremely sophisticated in their response, not just to the land council but to the Northern Territory government, to resource developers and whole range of other people who visit their communities on a daily basis. I think that Aboriginal people have now got a fairly good understanding of the way the system operates and a fairly good understanding of the primacy given to traditional ownership under

the existing legislation and where that fits in—I hate to use these words because they have a lot of currency these days—with the sort of 'mutual obligation'.

CHAIR—A good set of words.

Ms Smith—I think these days a lot of traditional owners have a very good idea of their own rights with respect to a land council and vice versa. It is not necessarily an unequal relationship at all, in my experience, having more recently done a number of reviews of various Aboriginal organisations outside land councils. The land councils have matured, just as Aboriginal organisations and individuals have in their relationship with the land councils.

Mr SNOWDON—In that context, recognising that there have been and there are some smaller groups of people who believe they want more autonomy in terms of breakaways and all the rest of it—and I know, Dr Martin, that you have done some work in relation to north-east Arnhem Land which we are not going to have time to canvass this evening, unfortunately—would you say that, by and large, recognising that there are these people who aspire to break away from the land council, the existing land council structures, there is a level of acceptance and comfort about the way in which the land councils function in that basic question of informed consent and decision making in Aboriginal law and practice?

Dr Martin—My own experience from north-eastern Arnhem Land was that people did not understand the full, let us call it, statutory impact of the informed consent provisions. They did not understand that the full council—in that case, the Northern Land Council—could not make decisions about exploration licences and so forth on their lands without the informed consent of the relevant traditional owners. That was one of the factors which underlay the move towards establishment of a regional land council in that area.

The move of the land councils towards establishing regional subcommittees is definitely a move towards trying to address what is not so much an issue of fact or law but an issue of perception. As I argued earlier, the same issues would come up, for instance, in north-eastern Arnhem Land whether you had a regional land council based at, say, Yirrkala. Yirrkala, socially speaking, is just as remote from Milingimbi in that area as is Darwin. It is a question of scale really, and it is not so much the geographic distance but the social distance which is crucial.

So, to answer your question, I think perceptions would be improved by decentralising but with the core proviso that the informed consent provisions, or something very akin to them, are maintained so that local groups' autonomy over their lands are preserved, whoever is ultimately formally ratifying the decision.

Dr Sutton—One of the problems with the partial dependency of land councils on royalty income is that they have a vested interest, in theory, in obtaining a positive consent or a positive response to proposals. I do not think it is at all easy to show that that has worked out much in practice, but the question is whether there is a perception of potential conflict of interest. For that reason alone, I think it is justifiable to consider the commonsense possibility of separating the consultative operation a little further from the heartland of the organisation, which may stand to benefit from a positive result of the consultations.

Mr SNOWDON—Would you say that, given Woodward's principles and recommendations, your observation and experience of the land councils and the land rights act is that they have worked more or less effectively to satisfy the objectives of Woodward in terms of Aboriginal tradition?

Dr Sutton—Everything is relevant. If you look around Australia and you look at all the other land councils, of which there are now many, the two large ones in the Territory and, I suppose, the two smaller ones—but I have not worked for them, so I do not have any personal knowledge there—stand out as beacons of stability, probity, efficiency and you name it because they stand more or less at the top of the pile.

The history of the other organisations is generally the smaller the organisation, the less likely it is to meet those kinds of positive descriptions that I have just used, and I can see Dr Edmunds nodding here. As a person deeply involved in native title, she knows perhaps more than I do about what that means.

To some extent, this is a matter of their being green. That is, a lot of the newer organisations are cutting their teeth still. No doubt there were rough times in the early days of land councils. I was working for one of them within a couple of years of the proclamation of this act and it was still finding its feet. It was obsessed with mining, for example, at a time when all the most difficult land claims, or most of the most difficult land claims, in the Territory had yet to be researched and put through the tribunal. So there were imbalances of that sort. You will get that in early days, but these two now have obtained a track record that I think is going to be hard to beat. There is room for lots of improvement.

They are also likely to go through a sea change at times in their history, and I sense that happening at the moment, if not with the NLC then with the CLC. It is a bit hard to be too specific about what I am talking about, but organisations have life cycles like families do and they come to break points where there is a shift of gear—as you say, the end of the claims era, the beginning of the land management era and to some extent maybe the winding down of the mining emphasis or at least the tourism emphasis certainly.

Those economic shifts are going to colour the kind of people who work in these institutions, the kinds of consultations that have to be carried out and the kinds of exposure the owners of the land allow themselves to have to new kinds of forces, some of which they may be pretty sanguine about taking on. It is important for them to maintain the buffer between them and those who want something from them.

Dr Edmunds—I would like to add a very quick word to that, since Dr Sutton has referred to the native title experience. I think there is a very practical issue here, and it relates directly, again, to the recommendation in the Reeves report about the smaller land council. That is, small organisations in remote areas have enormous difficulty attracting staff who are competent to do the tasks that are required of them. As the two larger land councils have grown and developed experience, they have been able attract precisely the staff that can do the job. I think that feeds directly into Dr Sutton's point about how they are the beacons, if you like, within the land council arena.

Mr SNOWDON—This is just a comment, but would it be fair to say that having worked in the land councils has not hurt the status or the job opportunities of people—I am largely talking about non-Aboriginal people, but also about Aboriginal people—in the wider community? I am not referring here to any of you, but I note that there are three Supreme Court judges in Victoria who have acted as the senior legal officer in the Central Land Council at one time or another.

Dr Martin—I would like to briefly add to Dr Edmunds's comments. These organisations do not solely exist to serve Aboriginal ends, although they must do so to be successful. They also serve the aims and goals of the wider society. And, using the language which, again, has been prominent in the native title debate—

CHAIR—They do or they should?

Dr Martin—They should. I would argue that they do, by and large.

CHAIR—They try to.

Dr Martin—But, clearly, they should. As we said earlier, they exist precisely at this interface. Just to use some of the language that has come up in the native title debate, what has been of paramount concern to the parliament is certainty. In other words, in the broader society it has been argued that it is crucial that industry, various other kinds of commercial interests and, indeed, government have some degree of surety, some degree of certainty—in dealing with Aboriginal land councils in this case.

Returning to Dr Edmunds's point, it is, in that context, of fundamental important that whatever system is ultimately is recommended involve professional, competent and accountable Aboriginal organisations that not only, as I say, can serve the ends of Aboriginal owners of land but also provide a point at which the wider society, in its economic interests and so forth, can deal with some degree of surety.

The experience of small bodies in a range of other domains—including local government with small community government councils and the community councils in Queensland—has demonstrated a history of bodies precisely at this kind of scale which have had enormous problems, both in terms of serving their Aboriginal constituencies and in terms of providing the kinds of accountability which governments deserve. So the issue of scale is not just one for internal organisational governance. It is not just one for ensuring that Aboriginal rights and interests are preserved. It is also for ensuring that wider interests of government are served.

CHAIR—I have a couple of questions that I am going to put to you. Because of the time, I will ask you not to answer them, but to take them on notice. If you would be kind enough to respond in writing, I am sure that committee members would appreciate that. Could you give us your views on the present status, as you know it, of the register of traditional owners in each of the land council areas? How far advanced are they in their preparation, and how much more work are you aware of that might be needed to bring them up to completion level so that they are an authoritative source of identification and information?

The Reeves report recommends that the act should have some objectives stated in it, by way of amendment, and also clarified. I would be very grateful for your advice on whether you think that is necessary, and what sorts of objectives you think might be useful and helpful to achieve all of the other broader objectives that you are clearly wanting.

The model that David Martin spoke about, in response to Harry Quick and a couple of questions I asked—of further empowerment by creating an organisation closer to the communities by way of delegated authority—is obviously one that attracts my mind. I wonder if you could provide some advice as to the sorts of functions, from your experience, that you think could be delegated to these new organisations, should they come into being. I must say I am very troubled by the difficulty of ensuring that those people who are not traditional owners—but who live and work and make their lives with their families in these areas and who are Aboriginals and occupiers of long standing—might be given a voice and a role in shaping the future because, after all, it is their future too.

What do you think could be done to bring them in and give them some rights of input into decision making? Perhaps you might give us some advice on what sorts of delegated functions and powers could be jointly administered by those people, as well as the traditional owners. I take David's overriding advice that anything that is done by any created organisation should have the overriding principle that it is subject to consultation and agreement with the traditional owners. You are arguing that that principle should be maintained at all costs, I think, aren't you?

Dr Martin—Yes.

CHAIR—If you could take those points on board, I think that might help us as well.

Mr SNOWDON—I presume, Chair, you are asking that question in relation to land matters as prescribed under the Lands Right Act, or is it just a general question?

CHAIR—I had it in my mind to ask whether you considered matters other than land could be appropriately included for the benefit of the future of Aboriginal people. Seize the moment, seize the opportunity, do not feel restricted—but if, on the other hand, you think it should not be, of course say so.

Mr SNOWDON—Diane, could you come back to us on the issue of the royalty associations and the recommendations in the Reeves report for centralising their administration under NTAC?

Ms Smith—Yes. In fact, I am a Research Fellow with the Centre for Aboriginal Economic Policy Research. I think the centre will be making a submission here to you later on and those are certainly some of the issues that will be covered at that particular time.

CHAIR—Do you mind if we make your excellent summary a supplementary submission, because we did not finish reading it because of our interruption as you spoke, and I would like that to be part of the record? The committee accepts the supplementary submission as evidence into the inquiry into the recommendations of the Reeves report and authorised for publication. There being no objection, it is so ordered. I formally thank our witnesses today.

I think you have been very good and patient with us. You have provided us with lots of challenging information and we appreciate that very much. I would like to also thank the staff of the committee and *Hansard* for their work today.

Resolved (on motion by **Mr Snowdon**, seconded by **Ms Hoare**):

That this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 7.00 p.m.