



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON ABORIGINAL AND  
TORRES STRAIT ISLANDER AFFAIRS

**Reference: Reeves report**

WEDNESDAY, 31 MARCH 1999

CANBERRA

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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER**  
**AFFAIRS**

**Wednesday, 31 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:** Mr Haase, Ms Hoare, Mr Katter, 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

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**Committee met at 4.39 p.m.**

**ALTMAN, Professor Jon Charles, Director, Centre for Aboriginal Economic Policy Research, Australian National University**

**LEVITUS, Mr Robert Ian, Research Officer, Centre for Aboriginal Economic Policy Research, Australian National University**

**MARTIN, Dr David Fernandes, Research Fellow, Centre for Aboriginal Economic Policy Research, Australian National University**

**POLLACK, Mr David Peter, Research Officer, Centre for Aboriginal Economic Policy Research, Australian National University**

**TAYLOR, Dr John, Deputy Director, Centre for Aboriginal Economic Policy Research, Australian National University**

**CHAIR**—Welcome. I declare open this public hearing for the committee's inquiry into the recommendations of the Reeves report on the Aboriginal Land Rights Act. As many of you will know, the Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron, has asked the committee to seek people's views about the recommendations in the Reeves report.

Members of the committee are starting this inquiry with open minds. We want to talk with all interested parties—Aboriginal and non-Aboriginal—in a spirit of cooperation. We want to consult as widely as possible. For this reason, we plan to visit as many regional centres and communities in the Northern Territory as we can.

We have already been to Darwin and Bathurst Island. We will be returning to the territory next month, and in May and June, to continue consulting. We will be holding further hearings in Canberra such as this one today where we are fortunate to have the Centre for Aboriginal Economic Policy Research representatives with us.

The hearing is open to the public. A transcript of what is said will be made available. If you would like further details about the inquiry or the transcripts, please ask any of our committee staff present at the hearing.

I have pleasure in welcoming the witnesses from the Centre for Aboriginal Economic Policy Research. 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.

We have authorised for publication the papers that you kindly made available to us following your conference at the weekend. They are part of the public record now and I would like to acknowledge and express my deep appreciation to the centre for making those papers available. I understand you have an opening statement, Professor Altman.

**Prof. Altman**—I thought I would start with a brief opening statement to get the ball rolling. The Centre for Aboriginal Economic Policy Research, fondly known as CAEPR, is an independent research centre at the Australian National University and has been in existence since 1990.

The team before you has enormous experience in undertaking research in the Northern Territory, much of it on land rights related issues. To briefly introduce the team: John Taylor is a geographer who researches population and socioeconomic status issues; Robert Levitus is an anthropologist who headed a major component of the Kakadu region social impact study and has worked in Kakadu for 18 years; David Martin, an anthropologist, has undertaken research on breakaway land councils and on land claims; David Pollack has worked for both DAA and ATSIC on land rights administration in both Darwin and Canberra.

I have undertaken studies of the economic impact of land rights over the past 20 years from the disciplinary perspectives of economics and anthropology across many sectors including mining, tourism, arts and crafts, and contemporary hunting and gathering. In 1984, I reviewed the ABTA. In late 1989, I was involved in a further review of that institution. In 1997, I was appointed independent expert to the Kakadu region social impact study by Senator Hill. In 1998, the Australian government nominated me as a member of the UNESCO Kakadu mission. Over the years I have reviewed a number of royalty associations for the Department of Aboriginal Affairs, ATSIC and land councils.

We all took part—as the chair noted—in the workshop last week, *Evaluating the Reeves Report: Cross Disciplinary Perspectives*, which was a workshop co-sponsored by CAEPR. David Pollack and I also undertook some work for Mr Reeves last year on *Financial aspects of the Northern Territory Land Rights Act*, a copy of which has been provided as an exhibit to the committee.

It is my view that the two-day workshop last week posed fundamental challenges to the proposed Reeves model from a wide range of perspectives: anthropological, economic, legal, financial and public policy more generally. This multidisciplinary critique, from a diverse range of experts, reinforced for me a view which I had already formed: that the Reeves effort is the worst review report I have seen in over 20 years of research in indigenous affairs.

Reeves got some things very right. In the wake of the sunset clause, land management issues will require much greater focus as the land claims process comes to an end, a point that some commentators were making at least a decade ago. There are pressures on the two major land councils to regionalise and devolve powers, pressures that have existed since before the passage of the act and mirror those in any federation. There is a need for a partnership approach between governments and Aboriginal people and, as predicted by Woodward in 1974, 20 years of land rights have delivered a panacea for Aboriginal socioeconomic disadvantage, itself a legacy of isolation, marginalisation and neglect.

Reeves is not the first to raise such issues, but his proposals to deal with them clearly do not reflect views expressed in consultations with stakeholders, and are highly problematic. If implemented, they will be administratively unworkable and costly in terms of compensation

and delay. They will create uncertainty for resource developers and will increase conflict, both in the indigenous domain and between indigenous and non-indigenous interests. They will reduce hopes of reconciliation in the Northern Territory, a jurisdiction where, unlike any other in Australia, 25 per cent of the population is Aboriginal and nearly half the land is Aboriginal owned. And they will increase political instability and stifle investment on Aboriginal land.

CAEPR's evaluation of the critical weaknesses of the Reeves review is that it misunderstands and conflates relationships between land rights and economic development. It takes a top down, paternalistic, social engineering approach to economic development that has been shown historically to be counterproductive, rather than one based on the rights of Aboriginal people to be self-determining in their ability to enter into agreements with relevant stakeholders based on negotiation.

The Reeves review fails to see that the appropriate means to provide regional and local empowerment is via existing, bedded down institutions, rather than by creating a new level of tiny autonomous bodies, the proposed regional land councils, that will prove extremely costly, ineffective as representative bodies, and impossible to adequately staff.

It wants to establish a new institution, the Northern Territory Aboriginal Council, or NTAC, that will have as its *raison d'être* functions like provision of health, housing, education, that rightly should remain the responsibility of governments and their agencies. NTAC will operate as the perfect substitution mechanism financed from what will effectively be taxes from Aboriginal land.

The Reeves review recommends weakening of the nexus between *de facto* property rights in minerals and appropriate financial incentives to landowners that currently facilitate development on Aboriginal land instead of strengthening such developmental incentives. It seeks to weaken what are highly workable institutions like land councils, rather than recommending reform to strengthen and resource them realistically and systematically on a workload basis.

The Reeves review ultimately misrepresents as negatives many of the positive outcomes of the Land Rights Act that have made a real difference to thousands of Aboriginal people who have chosen to move to live on Aboriginal land. It misrepresents the positive role played by royalty associations in regional development for traditional owners, other Aboriginal residents of areas affected, and for wider interests.

The Fraser government's Land Rights Act is not a perfect statute, but what it does is carefully balance indigenous and non-indigenous interests in land in the Northern Territory. It empowers Aboriginal people on a local and regional level while allowing for a unified Aboriginal voice. It provides traditional owners with incentives to allow development on their land but then equitably divides resulting income streams. It provides the Commonwealth minister with wide ranging checks and balances powers to ensure appropriate accountability.

The Land Rights Act has considerable in-built mechanisms for reform to accommodate changed circumstances. For example—and we can certainly develop some of these more in

discussion—aspirations for greater regionalism can be facilitated without creating atomistic, expensive, ineffective institutions. The needs of residents on Aboriginal land can be enhanced through statutory options for agreement making. The functions of land councils can be reoriented to focus on land management. The formulae for distributing royalty equivalents and other payments can be altered. Existing institutions can be appropriately resourced and thus strengthened, and accountability, which is already very high, can be enhanced.

A feature of the past two decades has been the excessive politicking that has hampered such options for progressive reform acknowledged as necessary by all parties including land councils and their constituencies. The response to Reeves to date suggests that another important opportunity for reform might be lost. There is scope for change but this must occur in a balanced, bipartisan and pragmatic way that incorporates the views of all stakeholders. From its enactment, there have been enormous ministerial powers over all aspects of the statute. If there is a ministerial view that the act is not working, it might be timely to have ministerial leadership.

A crucial role for this committee, in my view, is to make its mark by dismissing Reeves's unworkable model in favour of sensible and pragmatic finetuning of the existing and highly workable Land Rights Act. In the fraught world of indigenous affairs policy making, such positive reform will be a commendable achievement.

**CHAIR**—Thank you. Do any of your colleagues wish to make a statement now?

**Prof. Altman**—I think we will leave it to specific questions.

**CHAIR**—I will open the batting, if I may, and again record my appreciation for the in-depth papers that you have provided us. There is lots of food for thought. In one of the papers the point is made, which I was not aware of, that since 1976 Aboriginal population growth in the Northern Territory has gone from 23,751 to 51,876 in 1996. I found that figure very enlightening. Would you be able to give us your views as to why that growth has occurred and your knowledge as to where those Aboriginal people may have come from? Is it birth rate or is it other reasons?

**Prof. Altman**—I will have a quick stab at that and then I will ask John Taylor to comment. It is a combination of birth rate, better enumeration and, probably less so in the Northern Territory than anywhere else in Australia, it has probably increased. Self-identification is indigenous, but I think that is a very minor factor in the Northern Territory. John, you would probably like to comment on that as well.

**Dr Taylor**—I concur with the points that Jon raised there about the contributing factors. The key one is a continued high birth rate combined with increased child survival. You may be aware that up to the 1970s the infant mortality rate in the Northern Territory was extremely high. It still is, of course, but by no means as high as it was back then. In fact, one of the allied—

**Mr KATTER**—Could you quantify that?



**Dr Taylor**—Not off the top of my head. I could provide the committee with those figures. One of the factors that has gone in parallel with the introduction of the Aboriginal Land Rights Act in 1976, and its subsequent 20 years of enactment, is a considerable improvement in the infant mortality rates. There has been a substantial decline in infant mortality, primarily on the back of much improved access to Northern Territory health services. This has occurred alongside high fertility and consequently has led to population growth. That is the primary reason. There are other contributory reasons: increased self-identification, much greater effort by the Australian Bureau of Statistics to enumerate Aboriginal people, especially in remote areas, and also a net immigration to the Northern Territory from other parts of Australia.

**CHAIR**—Net immigration as well.

**Dr Taylor**—Yes.

**CHAIR**—Using that as a base and looking to the future, which is what the committee is trying to do—what is best for the Aboriginal people and all Northern Territorians—is it your understanding that Woodward in his recommendations laid the foundation for a principle that, firstly, Aboriginal people should have their own land for all the reasons we understand; that, secondly, the benefits derived from that, other than spiritual and the human benefits such as economic benefits, would not exclusively be allocated to traditional owners? In fact, Woodward led to the legislation which enshrines the principle that the economic yield from the land should be disbursed amongst all Aboriginal people in the Northern Territory. There are recommendations about the amount or the proportion. Do you agree that is a correct interpretation of Woodward's basic principle, that the revenue should be shared amongst all Aboriginal people?

**Prof. Altman**—I think it is fairly clearly stated in the Woodward report and it is reflected in the formula, what is often referred to as the Woodward model, which is the 40-30-30 formula, which saw 40 per cent of mining royalties, but subsequently these became equivalents, reserved for the costs of land councils; 30 per cent for traditional owners of and people residing in areas affected by resource developments, and then he suggested that 30 per cent be reserved to or for the benefit of Aboriginal people throughout the Northern Territory.

Basically, Woodward was certainly keen to see, you could say, a redistribution of the benefits from land rights to Aboriginal people generally. Alternatively, you could also put that the other way and say he did not want to see too great a concentration of the benefits of land rights in particular localities where you may be lucky to have land rights and a major resource development project.

**CHAIR**—Taking that one step further, we have had lots of submissions and advice from witnesses to date reinforcing the principle that Aboriginal traditional landowners do not wish to make decisions about other Aboriginal traditional landowners' land, and also that Aboriginals living on Aboriginal land but not being part of the clan traditional landowners should not have input into the use of the land because that type of input or decision making process should be exclusively that of traditional landowners. Is that an accurate statement of

what you understand the contemporary view is coming from the Northern Territory from people speaking on behalf of traditional landowners?

**Prof. Altman**—I think I would modify that a little bit because under the Land Rights Act there is a requirement for traditional owners to consent to development on Aboriginal land. There is also a requirement to consult with other people affected. The minister has to be confident before signing off a major resource agreement, in particular a certified agreement which has a value of more than \$100,000 or extends for more than two years, that those processes have been gone through. So there is a process both of consent from traditional owners and consultation with other people in the areas affected.

**CHAIR**—Having regard to that, there is in a sense a conflict, both existing and potential, in that principle enshrined at present in the legislation that we are being asked to review. Having regard to the fact that we have already established a massive increase in population of Aboriginal people in the Northern Territory and a likelihood that that will continue, do you think it is time for contemporary Australia to look at those principles and be prepared to examine whether there ought to be a relaxation of those rules?

**Prof. Altman**—I do not see a conflict there because it seems to me that there is traditional owner consent and residential population consultation. Under section 35(2)(a) and (b) of the Land Rights Act, there is a requirement that both traditional owners and residents of areas affected are compensated if there is a major development. I do not see a conflict there.

The other point I would make is that there have been previous reports, particularly one by the Industry Commission in 1991, that suggested that the 30 per cent that is paid to traditional owners and other people in areas affected is in fact a form of de facto property right. Their suggestion was that that proportion should increase to 70 per cent to the area affected. Their argument was that land councils should be funded directly from consolidated revenue, not from mining royalty equivalents. The other side of their argument was that traditional owners and the other residents consulted needed a stronger signal, a clearer signal, to allow development on their land. If anything, I think the sort of argument I would be making is that the 30 per cent going to the areas affected is not high enough and it should be higher. But the status quo certainly seems to allow major development projects on Aboriginal land at present.

**CHAIR**—I think from a read of your papers—obviously my colleagues will not have had the chance to read them yet—you and your colleagues are acknowledging that it might be appropriate to examine the royalty arrangements to ensure that the benefits flowing from the future royalties to Aboriginal people are better understood and that the targeting and other essential items to get a good outcome for Aboriginal people is given some attention. Do you acknowledge that that is a need?

**Prof. Altman**—It is very much a need and it is something that has been emphasised in our research in terms of the requirement for appropriate accountability for the way royalty equivalents are utilised. Having said that, it is important to put this royalty cake in the right sort of context. Just before I came here, I did some calculations. Basically, at present royalties account for \$500 per capita across the Northern Territory. If you take out the cost

of administering land councils, you are talking about \$250 per capita. I think that has to be contextualised, for instance, with the sorts of funds that the Northern Territory government gets from the Commonwealth Grants Commission, which is in the region of \$5,000 per capita—four to five times higher than what the Commonwealth Grants Commission gives the rest of the Australian states per capita.

Sometimes the significance and the potential economic significance of royalties can be overstated. To see those as somehow driving Aboriginal economic advancement or betterment in the Northern Territory is a little unrealistic when you put it alongside some of the figures, even in the Reeves report, in terms of the hundreds of millions of dollars that are paid by the Commonwealth and Northern Territory governments towards Aboriginal advancement. I think we have to be a little realistic there.

**CHAIR**—If I remember rightly, there are about \$800 million per year paid by Commonwealth and territory governments for the benefit of Aboriginal people: education, health and the like. The total royalties, from memory, are about \$50 million a year?

**Prof. Altman**—They are \$35 million a year.

**CHAIR**—So, in context, you make a good point. I acknowledge that that is a very good point.

**Prof. Altman**—One needs to make the additional point—and this is something that Woodward recognised—that royalties do represent discretionary income and are, to some extent, linked to Aboriginal self-determination at that time. The term that is used more commonly these days is self-management. Aboriginal people could determine how these resources are used, particularly in a regional context. They have demonstrated that in many situations they do in fact use those for development purposes.

**CHAIR**—Thank you, Jon.

**Mr KATTER**—I must admit, Jon, I was very surprised at how acute your perceptions are. I agree very strongly with the observations that you make. The only thing that it does not seem to me that you took cognisance of here, nor in your report, is the fact that the little bloke, the bush Murrays, get left out. We had the situation with respect to the Ernest Henry mine, which got a lot of national publicity. I rang up the major bloke involved and said, ‘What are we going to have, a land council on every street corner here?’ They wanted a land council in Cloncurry for just Cloncurry. To quote him verbatim, the bloke said, ‘Are you a curry Murray or what are you?’ He was pulling the local boy thing on me in a big way. I said, ‘I repeat, are we going to have a land council on every street corner?’ He said, ‘Well, where is the money from Ernest Henry going to go?’ I said, ‘It’s going to go into the land council.’ He said, ‘As it now stands, geographically where is the money going to go?’ I said, ‘All right, the Isa.’ He said, ‘The Isa, that’s right. I’ll ask you again: are you a curry Murray or what are you?’ I said, ‘All right, I get the message.’

I want you to understand that I am one of the little people here. When I discussed it with Tracker I said, ‘There is another argument on the other side here.’ I can see very clearly that there is another argument on the other side because I will never be convinced that much of

that money is going to filter back to the local community. If it goes through Alice Springs or Darwin, most of it is going to stay in Alice Springs or Darwin. So, Jon, that is my first question. How do you deal with that argument?

**Prof. Altman**—The answer would be that the Land Rights Act has a fairly effective mechanism. A lot of our discussion about mining royalties is focusing on the statutory royalty equivalents, which are channelled via a body called ABTA—now the Aboriginals Benefit Reserve—and 30 per cent of those moneys have to go back to the regions where the mine exists.

On top of those you have negotiated payments—agreement payments—and agreement conditions, which may include employment, training and so on. Those, too, are very much focused on the regions. A lot of those agreements do not actually stipulate that it is traditional owners who have to benefit, just Aboriginal people residing in the region. I would argue that there are mechanisms within the act to ensure that the people out there, the troops, are getting a fair share of the cake.

The other issue that we have to face is that you are getting these lumps of money, which Aboriginal and regional interests can utilise in one of two ways or, if they are clever, in both ways. One is to dissipate them to what can be hundreds or thousands of potential beneficiaries. If you do that, (a) you get criticised and (b) you do not actually make a difference to the structural position of people.

**Mr KATTER**—Surely that strengthens the Cloncurry argument, the Ronnie Page argument from Cloncurry.

**Prof. Altman**—I would agree.

**Mr KATTER**—That is what he is saying. He says that it goes back to Mount Isa and gets dissipated; Cloncurry will not see any of it.

**Prof. Altman**—The other option is to maintain those critical masses and do some of the things that we have seen in the Northern Territory. For instance, we have seen the Gagadju association investing in hotels in Kakadu National Park. They are not just for the benefit of traditional owners or the residents; one would argue, they are for the benefit of the Northern Territory economy and for Australia generally. I have to say that, whilst the Gagadju association has invested its mining royalty equivalents in that sort of tourism infrastructure, there have not been other private sector investors who have gone in there with their dollars—Aboriginal dollars have done it.

**Mr KATTER**—I do not mean to be rude, Jon, but I do not think you are addressing the sort of problem that I am talking about here. Cloncurry and Ronnie Page are saying, ‘Yes, we agree with all the things you’ve said, but that is not going to put the money back in Cloncurry. I believe that Ernest Henry belongs to me, my family. I do not believe it belongs to the Mitakoodi tribe or the Kulkadoon tribe. No, it is in my area and it is my money. In the old days, culturally it would have been seen that way—I think that the anthropologists would agree with me—and today it is no different. They see it as their money. Cloncurry

sees it as their money and it does not belong to the Mitakoodi tribe or the Kulkadoon tribe; it belongs to me.'

**Prof. Altman**—The response I should have is that maybe Queensland needs a Northern Territory model. Under the Land Rights Act, these resources can only go to incorporated bodies in areas affected. Those incorporated bodies are required to be accountable—

**Mr KATTER**—That answers my question; stop right there. That is good. My second problem—and I do not think that this is really addressed in the Reeves report—is the most burning question for anyone who is at the coalface in Aboriginal affairs. You simply cannot go forward because you have no private ownership. Without private ownership, you stay in the Stone Age. Their land arrangements are that sort of arrangement to some degree, although I have heard anthropologists argue it the other way. In front of the president of the Aboriginal coordinating councils for Queensland—and, Mr Chairman, I must say this to the meeting to bring attention to it—Lloydie Fourmile said that the only place in the world now where you cannot own your own home is Yarrabah, meaning all of the Aboriginal communities. There are two reasons for that.

The first one is native title. If they were to try to issue a special lease—not that they are trying—and were to go back to the previous legislation that they drafted themselves, which was overthrown in 1990 and enabled them to have private ownership, they would not be able to lease because they would be hit with an injunction by the native title holders. The Yarraba situation is that there are 60 of the original tribe and 3,000 not of the original tribe. They are being hit with injunctions all the time. For that reason, they are not going to be able to move.

The second reason is the new state government act that came in in 1990. That overthrew the original act and precipitated the worst rioting in Queensland parliamentary history. That was how it was greeted. Yarrabah is now owned by two trustees appointed at the whim of the minister instead of owned by the local council. But coming back to the original point of private ownership, as far as my reading of it goes, Reeves missed the whole point, the most important point of all, that no private ownership stays in the gutter.

**CHAIR**—I will let Jon answer that now and then I have to give the other members a chance.

**Mr KATTER**—I am sorry, Chair, but I do want an answer to it. It required that I be a bit long winded.

**CHAIR**—I am glad you asked the question but I will have to ask Jon to answer that now.

**Prof. Altman**—There is a problem with private ownership of housing on Aboriginal land. That problem results in the sorts of social indicators of home ownership showing that Aboriginal home ownership on Aboriginal land is low because it is not possible to have private ownership of housing on Aboriginal land. On the other hand, there are mechanisms in the Land Rights Act where you can lease land from traditional owners.

**CHAIR**—And that is private ownership, Jon. If you did that, it becomes private ownership.

**Prof. Altman**—Yes, it becomes private ownership. The other thing to say is that a lot of the housing that is provided on Aboriginal land is public housing. To privatise public housing is something that one would like to see happen in the longer term. In fact, it has happened to some extent in Canberra with public ownership of leasehold land which people privatise, but there still is a problem there. I do not see that problem as being one that can be sheeted home to the Land Rights Act. That is a problem to do with the way that public housing is provided to Aboriginal people through housing programs.

**Mr KATTER**—I am talking about farms and cattle stations too.

**CHAIR**—Mr Quick.

**Mr KATTER**—I am sorry, but I have one other point to raise.

**CHAIR**—A quick one if you don't mind, Bob. We have to finish by 6 p.m. and I have to give my colleagues a chance to ask their questions.

**Mr KATTER**—That's fine. A report in the *Bulletin* said cattle numbers had shifted from 160,000 down to 72,000. I notice that Tracker did not deny that. Clearly, there is something terribly wrong. Do you think that the proposals by Reeves would worsen that situation or overcome it, or do you think there is a third way that would start to address these problems and get these station properties working properly?

**Prof. Altman**—Do you mean Aboriginal or non-Aboriginal stations?

**Mr KATTER**—Aboriginal stations. On the land, when they purchased it, there were 160,000 cattle, according to the article, and now there are 72,000.

**Prof. Altman**—The issue of Aboriginal ownership of pastoral stations and their commercial viability is an important one, although I do preface that by saying that in the analysis in the Reeves report, which I happen to agree with, he says that the pastoral sector is not particularly important for the Northern Territory economy. Having taken that on board, I do think that there are moves afoot to ensure that Aboriginal pastoral stations are run both as commercial entities and as properties where Aboriginal populations can reside. Those two things have not necessarily sat very comfortably in the past.

**Mr KATTER**—Absolutely true.

**Prof. Altman**—But part of the problem has been that properties have often been purchased without working capital. They have often been run-down properties. That is why they have been on the market and have been purchasable. The Indigenous Land Corporation in particular is now looking at ways of commercially developing Aboriginal pastoral properties, particularly where they exist in Kidman-like blocs where you can actually move cattle between Aboriginal pastoral properties. Particularly in the Kimberley, there is

enormous potential for the Aboriginal pastoral properties to become more commercially viable.

Having said that, the 200 Aboriginal people living on each of those properties will not necessarily all become fully employed or have a similar socioeconomic status to other Australians. What you will have is residential populations and commercially viable enterprises on those properties.

**Mr QUICK**—I have a question for David regarding the land councils' value for money. On page 8, you state that based on a per capita staff cost of \$80,000, the total operating cost to the RLCs will be \$20.2 million annually. Where do you get the per capita staff cost of \$80,000? To my mind that seems pretty horrendous. Are they all SES level 1s?

**Mr Pollack**—That figure is just taking the staff figure and dividing it into the overall total cost of the four land councils across the territory. Those costs include salaries, desks, capital costs, computers, travel, the whole lot. It is the average cost of employing one staff member across the board.

**Mr QUICK**—Is there a basic assumption that each regional land council should have exactly the same management structure?

**Mr Pollack**—Certainly not. What I have implied there is the bare minimum requirements that you would need.

**Mr QUICK**—You mention that they should have financial staff, mining and resource specialists, legal staff, anthropologists and administrative support. Does each of those 18 have to have all of that?

**Mr Pollack**—That is what I have suggested as a bare minimum. There is an attachment that went with that.

**Mr QUICK**—We have not got that.

**Mr Pollack**—I have copies here.

**Mr QUICK**—If we had the 18, they would be exactly the same. A sum of \$400,000 is mentioned. Is it possible for some to run at \$400,000, some to run at \$1.2 million, and some to run at \$5.8 million? That does not seem to appear in—

**Mr Pollack**—That is the picture. You would definitely need some financial management staff. It would be preferable to have a lawyer and an anthropologist. You would certainly need admin staff. On top of that, Reeves recommends a CEO. What he does omit is a chairperson, which I think is an important part of a land council.

**Mr QUICK**—Where does ATSIC fit in? You mention in your paper that there are currently 164 permanent and 15 temporary staff working in ATSIC in the Northern Territory. Surely they have lawyers, anthropologists, legal staff, financial staff and mining and resource

specialists. Is there any conjunction at all between ATSIC and the current four land councils? Are they operating in their own little fiefdoms? Can you explain how they work together?

**Mr Pollack**—The paper was narrowing in on land council functions.

**Mr QUICK**—I understand that, but you guys are the experts. How do ATSIC and the current four land councils work together? It is my understanding that they all have legal and mining experts, administrative support, anthropologists and financial staff. No-one mentions the cost per annum of ATSIC in the Northern Territory. There is some note about how much is being spent on the various land councils here. Can you explain—

**Prof. Altman**—Aren't we getting a bit confused here between ATSIC, an institution with statutory functions, and land councils that have a set of land related functions which they have to fulfil. ATSIC has an annual report that explains its range of programs that they deliver to Aboriginal people.

**Mr QUICK**—I understand all that, but we are supposed to either tick the box, put in a cross, or look at a third option. It talks on page 10 of some form of decentralisation, how the Northern Land Council and the Central Land Council are merging and coming up with some other model and that down the track it is going to work, hopefully.

I am trying to find out how that can be put in place by some sort of collocation or conjunction between two huge bodies that have replicated expertise. People appearing at these hearings have half a dozen hats in lots of cases and they are writing submissions and working part time for this and that.

You are the experts, I would like to hear your opinions. If 18 isn't the great thing, okay, reject that. We've got four now. Having travelled with this committee and the native title committee for the last six years, and having been on the inquiry into indigenous health, I have seen most of the communities. I can understand where you are coming from. How do we get the best model? Is it eight? Will four be better resourced by working together? I know it is a long-winded dissertation.

**Prof. Altman**—David Martin might like to say a bit more. I guess the table that we have put around tries in some ways to make a recommendation about the way we see land councils should be resourced. I would certainly agree with you that four land councils are probably two too many.

Having said that, I think there is capacity to have regions of land councils, with the majority of staff and expertise centralised, so you do benefit from economies of scale and you also benefit from having professional staff housed in Darwin and Alice Springs. You then provide servicing to regional bodies because, as we heard last week and previously, there are pressures for regionalisation.

I think the issue we are trying to raise is that, if there are these pressures for regionalisation, we must realise what are the economies of scale required with larger bodies. I think that is a general drift in Australian public administration. But then, if we are going to try to resource some of these outlying areas, we have to look at what sort of pressures they are



going to be under in terms of workloads. One of the main ones, of course, is exploration licence applications and then how these areas can be resourced from the central body. We certainly are not suggesting any duplication.

In some ways, I think David's analysis is suggesting how unworkable the Reeves model is. When he does the sums, he comes up with a figure for the cost of 18 regional land councils and NTAC being approximately \$40 million per annum, which is more than the total mining royalty equivalent income of the ABR.

**Mr QUICK**—Barry Wakelin and I were out at Oak Valley and Docker River last week. There are problems there with health and education. Each of them want to have their own management structure, either based or sourced out of Alice Springs or Darwin. So how, with these land councils, ATSIC and various territory services, do we not have half a dozen administrative structures, but with technology being so sophisticated that someone dips into four bags of money and says, 'Here are the computers and satellite technology that we need for Docker River and Oak Valley and Yuendumu,' and wherever else it is? There is some sharing.

I agree with what you are saying, that you can have videoconferencing and telemedicine and telehealth, and all the other things but, if everybody has to find a bag of money to do it, it is not going to work. There is frustration and there are perceptions that the Northern Land Council and the Central Land Council do not care about people because they have these problems with health, education, transition to work and all the other things. What sort of model should we come up with? I want to pick your brains.

**Prof. Altman**—I think it is tricky in a way. It is interesting how sometimes land councils are criticised for not delivering health, education, employment and training. That is partly because other people who have the statutory responsibility to do that are not doing it.

The issue of coordination of agency activity in all parts of remote Australia has a long history as a problem for public administration. I am glad you have extended the analysis beyond ATSIC because there are a whole host of Northern Territory government and Commonwealth agencies operating in the Northern Territory. If they could coordinate—and this is something that was advocated quite strongly in 1987 under the Aboriginal employment development policy—you would see some real economies. You would also probably see some better outcomes because some of the social problems and socioeconomic problems that we are facing in remote Australia require a holistic approach. But I am not sure that this holistic approach can somehow be driven by issues to do with the Aboriginal Land Rights Act.

I am a little concerned that maybe we are just broadening the ambit a bit too wide because it is easy to look at one form of statutory authority. At this stage, they have statutory functions, land claims, getting informed consent from traditional owners for development, land management issues and saying, 'How can we make these bodies somehow deliver better in the areas of Aboriginal health, housing, employment and training, where we know there are enormous shortfalls and inequalities?' I am not sure that regional land councils or the current land councils can be required to provide those.

**Mr QUICK**—My reading is that some people perceive that NTAC, these super 15 people, will deliver that.

**Prof. Altman**—I have not seen a convincing argument about how the NTAC tail will wag the dog, but I am waiting to see that argued persuasively. Certainly, most of our analysis is saying: NTAC will not do it, firstly, because the cost of administering this land council system being suggested will eat up all its resources anyway. Secondly, it is a bit hard to see the Northern Territory government and Commonwealth agencies handing over hundreds of millions of dollars to this new institution that will not have any of its own resources. What you tend to find in the politicking over resources is that it is the large organisations that have most of the dollars that draw on the smaller ones, not the other way around.

**Mr WAKELIN**—Professor Altman, I understood you to say you believe two land councils would suffice. Can I ask which two you would use as your base?

**Prof. Altman**—My personal idiosyncratic view is that, obviously, the Central Land Council and Northern Land Council are the two major land councils. One could buy into political argument here, not with you but with the people who are currently benefiting from the activities of the Tiwi Land Council and the Anindilyakwa Land Council. They were ministerially determined, one in 1978 and one in 1991. That was because there is provision under the Land Rights Act for forming these smaller land councils. I believe that the services provided to those two small land councils could be very cost-effectively provided by the larger ones, but I realise that there are a whole range of political, historical and cultural reasons for land councils today.

I guess I am saying two things. One is that, if there is a really strong regional drive for similar land councils, there are provisions in the Land Rights Act to provide those sorts of land councils, as long as the minister is convinced the majority of Aboriginal people in those regions want those land councils. The other thing I am saying is that there are also costs involved. I am certainly not advocating more land councils.

**Mr WAKELIN**—I understood the thread of your argument was that you feel to go to small land councils will diminish the authority of the local Aboriginal groups that exist within the current four. You feel that there would be less sharing of the power by going to smaller land councils. Have I got that right?

**Prof. Altman**—I think I am saying that it would be far less cost-effective to have smaller land councils. What we also need to be aware of is that the two current smaller land councils are rather atypical. Neither of them has had to claim Aboriginal land. Both of them are 100 per cent Aboriginal land, which was schedule 1 land, ex-reserve land scheduled when the Land Rights Act was passed, so they have had no land claims activity. They are both extremely homogenous regions in terms of language and culture. They are both islands.

In a sense, there is no other region of the Northern Territory that would look quite like those two regions. There are a lot of reasons why Mr Reeves's use of those land councils as his benchmark for the costing of other small land councils is quite inappropriate.

**Mr WAKELIN**—You just make the point—as I understood the argument from your own document—that the Reeves model is inconsistent and that the regional land councils simultaneously centralise economic power. That is what you have said in your document. I am just trying to understand how, by going back to 18—hypothetically, or just from the Reeves model—that centralises economic power. I thought, conventionally, you would think it might just reduce some of that centralisation of power. Do you understand what I am saying? I am quoting from your document.

**Prof. Altman**—Are you reading from my paper?

**Mr WAKELIN**—Yes.

**Prof. Altman**—I think the bit you are probably missing out there is that NTAC will be responsible for the allocations. What I am saying is that you have centralisation in one overarching body. Part of my concern about that centralisation, too, is about discretion, about who gets ‘areas affected’ moneys. So, it is NTAC that will have that power.

**Mr WAKELIN**—No. With due respect, the NTAC part is secondary. This is a separate stand-alone statement where the Reeves model is inconsistent. You say that while it claims to empower regional interests with the creation of regional land councils, it simultaneously centralises economic power and that it will be run by an unrepresentative board. That is where you bring in the NTAC. So it is exclusively the NTAC issue. It is not the wider issue of more or less land councils, is it?

**CHAIR**—If you took NTAC out—

**Prof. Altman**—If you take NTAC out, obviously decentralisation provides political power to the regions.

**Mr WAKELIN**—Yes.

**Prof. Altman**—I do not disagree with that at all.

**Mr WAKELIN**—That is fine. You can appreciate from the document that it is—

**Prof. Altman**—It is a little ambiguous—that part.

**Mr WAKELIN**—Thank you.

**CHAIR**—The bogey is NTAC.

**Prof. Altman**—Yes.

**Mr WAKELIN**—You mentioned in your opening statement the issue of neglect. We would all have our own view of the issue around neglect. Briefly, how do you interpret that word ‘neglect’ of Aboriginal people, et cetera, in terms of the social economic disadvantage and those sorts of things? It was in that sort of context. Could you just help me through the neglect issue?

**Prof. Altman**—It depends on how far back you want to go. I would probably start off with noting that the incorporation of Aboriginal people in the Northern Territory into the mainstream provisions of the Australian welfare state occurred very late and, in some cases, occurred after the passage of land rights legislation, which is extremely recent history. A concrete example I can give you is that Aboriginal people residing in small communities on Aboriginal land, called out-stations, could not receive welfare benefits until the early 1980s.

It is probably clearest if I talk about the most extreme situation, that is, for instance, the sorts of services that are provided to out-station communities. The provision of services to small and remote Aboriginal communities often is not provided in areas like education, health, social security benefits, in terms of administering them. They are centrally administered and so on. When I say 'small and remote', some of these communities are 100 to 200 people. What I am saying is that a lot of Aboriginal people live in remote areas that are almost, if you like, beyond the boundaries of the Australian social security net. That constitutes neglect. The legacy of that which we now see is poor housing, poor education, low literacy and low training. Somewhat differently, there is also low employment levels, but that is more of a structural problem—that the labour markets are not there.

**Mr WAKELIN**—It seems to me that, to support that structure—which is a white-fella structure in many ways, isn't it?—we need economic activity. I think your point is quite valid. It would be \$700 million or whatever across the board to try to provide the range of services. Therefore how does \$35 million help—or a portion of that \$35 million? What I would like to try to draw from you is quite difficult, so I just want you to have a stab at it. How do we understand Aboriginal responsibility in this? Obviously, they have got to own it as well. How do we actually develop economic models, which we can get Aboriginal people involved in, to support that sort of structure and what is the most appropriate in your mind?

**Prof. Altman**—Some of my colleagues might like to comment on this as well, but I think that you are basically seeing a diversity of models emerging in the Northern Territory. Unlike perhaps some other commentators, I am not extraordinarily gloomy about the economic prospects of remote Aboriginal communities, particularly out-stations. Part of my optimism is based on research that I have done at these localities where I find that people are involved in a wide range of economic activities, many of which are currently not formal economic activities. They may involve, for instance, hunting and gathering activity, which generates, if you like, in-kind income in terms of game or fish, but does not generate cash. Also, in remote Aboriginal communities, you have a very robust arts and crafts industry.

You now have interest in commercial utilisation of wildlife and potential for small-scale tourism. That is one model that you can have which involves better management and taking economic opportunities that might exist on Aboriginal land. I qualify that by saying that it will not deliver people an average Australian standard of living.

In other situations, though, you do have a link of land rights with resource development projects. Those projects themselves—if not today, certainly tomorrow—can generate employment and training opportunities. Much of that is linked to Aboriginal people wanting to take up those sorts of opportunities or it requires agreements to require—

**Mr WAKELIN**—I note your comments on incentives, on the Reeves models.

**Prof. Altman**—I think it is important to have incentives to have those sorts of developments on Aboriginal land. What those projects also generate, though, is discretionary moneys that go back to regions, that are then used to invest in the infrastructure there. I am not sure whether, in your consultations, you will be going to places like Kakadu National Park, Nitmiluk National Park or Gurig National Park.

**Mr WAKELIN**—We hope to get to a spread, but our secretary is better equipped than I to know exactly where.

**Prof. Altman**—If you go to those sorts of places, what you will see is indigenous business initiatives based on mining royalty equivalent funding or funding from mining.

**Mr WAKELIN**—And some excellent tourism as well. I must let others have a go; this is an absolutely absorbing subject. My last question is about the issue of access to land for mining activity. There do seem to be significant differences between Aboriginal owned land, which is about 54 per cent, presuming land commissioner, et cetera, under those claims, and the current 46 to 47 per cent other ownership model. Do you have a view about that access to land? I am sure there are some cultural and traditional issues, but do you have a view about what appears to be a different access regime? Some mining companies—not all—might legitimately say, ‘We do have difficulty negotiating access to land.’

**Prof. Altman**—I think that you often hear the mining industry say that as an industry, but individual mining companies are in there very busily negotiating exploration access. These things change over time. My perception over a long time watching these activities in the Northern Territory is that EL access is becoming increasingly streamlined on Aboriginal land—it is accelerating at the moment. Therefore, my answer would be that the existing bedded down institutions and mechanisms, where one has to facilitate that sort of access, are working increasingly well. I would be rather reluctant to see those sorts of mechanisms disappear.

The associated way that one could also answer that question is: where is the actual mining and exploration action in the Northern Territory? I am thinking particularly of the mining action and where you find this is on Aboriginal land. It may be a historical accident that the unalienated crown land that was not good for pastoralism or other activities happens to be resource rich or it may be that access to Aboriginal land is not as bad as sometimes is presented for political purposes.

**Mr WAKELIN**—We had somebody come from the fishing industry, and I thought he was very articulate and dealt quite brilliantly with the Aboriginals, in my modest observance of what this chap was trying to do. He made the point that it was easier to negotiate with smaller Aboriginal groups around fishing rights and that sort of thing than it was to negotiate with larger organisations. I present that to you as one example of an industry where that relationship needs to be developed on a smaller scale, if you like, that seemed to be working more easily than with the larger model. You might make a comment on that.

**Prof. Altman**—I will only make the comment that my understanding is, again after discussions with the major land councils, that they delegated those sorts of agreement making powers to the regions. It is only the larger, longer term agreements that require land

council certification and ministerial approval. The smaller agreements can in fact be made at the regional level.

**Mr WAKELIN**—They have that authority in that sense?

**Prof. Altman**—Yes.

**Mr SNOWDON**—I want to make a suggestion which you may choose to agree or not agree with. Do you think that the Reeves report is an exercise in social engineering? I am conscious of the deliberations of your meeting over the weekend at which I was present.

**Prof. Altman**—I am a bit reluctant to answer that question because I sometimes feel a little bit self-critical. I wonder whether or not all of us are involved in forms of social engineering.

**Mr SNOWDON**—We are. But I want to make the point because I notice both yourself and others who have written papers have attacked the conceptual framework that is used by Reeves on the basis that he is addressing the wrong issues in relation to the Land Rights Act. I think you have made a very clear case to demonstrate why this committee is wasting its time, frankly, in looking at the recommendations of Reeves, because they are largely irrelevant.

**Prof. Altman**—I guess I would agree with that observation. John Taylor might also make a comment here about people moving off Aboriginal land for employment, for instance. One of the comments I would make in response to that is that it is surprising, and it surprised me a little bit at the Reeves workshop, how much focus was on the Reeves report, how little was on provisions in the Land Rights Act and how poorly understood the Land Rights Act was by a lot of people who were there so far as just what it can deliver in terms of needs if you want to be forward looking for the 21st century. That was in some ways the thrust of what I said in opening, that there is enormous potential in the Land Rights Act as it exists for modification. John might like to make a comment about that issue of employment and social engineering.

**Dr Taylor**—I have half gone asleep listening to Jon Altman all the time. I have to get my mind back in gear.

**Mr SNOWDON**—I know what you mean.

**Dr Taylor**—I think it is unequivocal. Of course, it is a 1,000-page document or whatever, but when you strip it all away, the key principle being advanced is whether there ought to be a link between the institutional arrangements around the Land Rights Act and social and economic outcomes for indigenous people in the Northern Territory. To that extent, that is a mechanism for social engineering, surely. The problem I have, however, is in regard to that analysis, or this as a piece of social engineering is that I am failing to establish precisely what this link has been, may be and ought to be. I think this is a fundamental methodological flaw. Nowhere are we told why we should expect there to be such a link. To put it in an almost flippant way, what precisely is the link, you might ask, between the operations of the Land Rights Act and any improvements in year 12 retention

rates? I am struggling with that one, and I think that is fundamental to the failings of this proposition as a piece of social engineering.

**Mr SNOWDON**—Would you agree with the proposition that what Reeves should have been about was reviewing aspects of the Land Rights Act to improve its workability as opposed to an exercise which is tying the Land Rights Act to all things related to Aboriginal wellbeing? Also, do you think a better exercise for us would be to get an assessment of the jurisdictional arrangements that exist between, with and among the various bodies that fund Aboriginal organisations and communities that deal with social welfare functions than pursuing the Reeves course?

**Prof. Altman**—There would be a slightly different terms of reference for this committee.

**Mr SNOWDON**—Absolutely.

**Prof. Altman**—I do think, though, that this committee, as I tried to say at the outset, has an opportunity to facilitate finetuning of the Aboriginal Land Rights Act, and I think that all stakeholders would agree, this panel amongst them, that there are things in the Land Rights Act that could be improved.

**Mr SNOWDON**—Can I just interrupt for a moment? I do not disagree at all, but my basic proposition is that this is not the document from which we should be working. What we should be doing, if there is a need to improve the workability of the Land Rights Act—and I agree there is—is throw this away and have a reasonable discussion about what is needed to improve the operation of the Land Rights Act. Do you agree?

**Prof. Altman**—I do agree, except that the one thing I would say is do not throw away the submissions to the Reeves review because I think—

**Mr SNOWDON**—We will keep the submissions. We will throw away the crap.

**Prof. Altman**—The submissions, I think, did reflect the diversity of views about concerns about the Land Rights Act, and I think from those submissions one probably could get a bipartisan approach to modifying the Land Rights Act. I think the issues have been highlighted but I am not sure they have been addressed in a manner that is going to result in anything but conflict in the Reeves report. One of the challenges probably for this review is to actually pick out of those submissions what are the genuine concerns about the workability of the Land Rights Act and how the act can be modified to make it more workable.

**CHAIR**—And more beneficial?

**Prof. Altman**—Again, as long as we do not extend ‘beneficial’ to mean that the Land Rights Act is required to deliver socioeconomic equality or benefit to Aboriginal people throughout the Northern Territory. What one would like to see the Land Rights Act doing is facilitating that process but not necessarily being required to deliver it because I do not think that is a fair basis to assess outcomes from the Land Rights Act.

**CHAIR**—Not on its own?

**Prof. Altman**—No, not on its own.

**Mr SNOWDON**—You might just like to comment on this. When I worked at Pipalyatjara in the north-west of South Australia for a couple of years, we documented at the time that there were over 30 or 40 different agencies visiting regularly to Aboriginal communities. These were state and Commonwealth agencies dealing with all things including police, et cetera. There is no doubt that that is an issue, but it is not related to land rights. I want to just make the point that to me what we are supposed to be doing here, I would have thought, is examining a piece of law which is about property, not addressing a piece of law which is about property and expecting to get out of it all the solutions about Aboriginal health, education, et cetera. Do you agree?

**Prof. Altman**—I do agree. I would also make the additional comment that when I queried at the workshop Reeves's chief economic adviser, Professor Blandy, about the property implications of what they were proposing in relation to areas affected moneys, which basically meant that there was no incentive for traditional owners to consent to exploration or mining on their land because there was no guarantee they would receive any compensation, he did not recognise that as a weakened property right. I was flabbergasted by that because the Industry Commission made it quite clear that what we need in terms of reform of the Land Rights Act is clearer, stronger property rights for traditional owners.

**Mr SNOWDON**—Didn't he also say, 'We see no future in the land'? He said it twice. I observed him say it.

**Prof. Altman**—He was very brave.

**Mr SNOWDON**—He said, 'We see no future in the land.' I think that demonstrated to my mind the absolute problem with the methodology which you have identified and the conceptual framework which was used by Reeves. I have no more questions.

**CHAIR**—Thank you.

**Mr SNOWDON**—I am sorry. You wanted to say something, John?

**Dr Taylor**—I thought I might just add to that, if I may.

**CHAIR**—Yes, you may have a response before Ms Hoare asks her question.

**Dr Taylor**—I think Warren's point is absolutely crucial. One of the key failings in the Reeves review was a failure to catalogue any financial or economic assets, employment, business developments that can be directly traced to expenditures emanating from the act itself. Instead, it relied on inference about the economic and social impacts of the act using social indicators data. I note at the conference that Professor Blandy, who was largely responsible for that analysis, congratulated this centre on its analysis in this area and its use of social indicators data. One thing I did not have time to point out at that conference was that, notwithstanding the quality of that work, I did not think it was the appropriate work to



be referencing in terms of reference for the review—that is, to establish the social and economic impacts of the Land Rights Act. At the very best, it gives you an indicator of potential links. At the worst, it provides no measure at all.

**CHAIR**—It is very obvious to me that there is no comprehensive record at all or catalogue of the expenditure of funds coming through the royalty system. There is no record at all of the bricks and mortar, if you like. I understand that you have not been able to find it after many years of dedicated work specialising in this area. You can judge from that statement that I am asking you to concur with it. Is that right? Is there no catalogue, no record?

**Dr Taylor**—Do you mean in the Reeves review?

**CHAIR**—No, anywhere.

**Dr Taylor**—Given that we have just had a major review that was supposed to address that very issue, it is a pity that I have to agree with you.

**Prof. Altman**—Are you referring to royalty associations?

**CHAIR**—Yes. I am talking about a catalogue of the projects that have been funded through the royalty association since their inception.

**Prof. Altman**—If you look at their annual reports—and some of them have fairly sophisticated annual reports—you will find quite detailed information about their investments, their service provisions and their distribution of moneys for community purposes. I would draw your attention to three or four royal associations that I have been involved in reviewing, but most recently the Ngurratjuta Aboriginal Corporation in Alice Springs that delivers all those things to 2,000 people.

**CHAIR**—If you do not mind me saying so, I read your paper, and part of your paper says exactly what I just said. There are exceptions. Some of the royalty associations have given an excellent account but others have not. The point I am trying to make is that there is not any comprehensive catalogue. That is something that is much on my mind.

**Mr SNOWDON**—These are private moneys. Frankly, why the hell should they report to us? This income is their income, not our income. I used to have a company. No one asked me to identify how I spent the money in the company.

**Dr Taylor**—Notwithstanding that, I am referring to the moneys that have emanated from the operation of the Aboriginal Land Rights Act and its manifestation in terms and economic assets. The beginnings of a catalogue are provided in some of the submissions to the review. I am thinking of the NLC submission, the CLC submission and the Jawoyn association submission. Unfortunately, I did not find any attempt in the review to bring these together which could start the beginnings of a catalogue.

**CHAIR**—I agree with that.

**Prof. Altman**—I think the point that I might be hearing you make as well is that there is a requirement for greater accountability by royalty associations for their utilisation of compensation moneys. I would wholeheartedly agree with you, but I think you would find that the major land councils would agree with you as well.

**CHAIR**—This committee has to grapple with the submissions that we are getting which are arguing, ‘Don’t you dare ask questions about some of these moneys because they are private money and not public.’ Mr Reeves has been taken to account by some people for having the temerity to say that all of the money ought to be at least subject to some sort of accountability and performance measure.

**Mr SNOWDON**—But they are accountable to their members as well as to us.

**Ms HOARE**—A statement in this July 1997 issue 20 brief is that in the next 20 years the institutional structures of the Land Rights Act would need to change from a focus on land claim to land development. You have spoken more about that. It then goes on to two issues in particular that need to be addressed, and you have also expanded on them in your paper. Can they be addressed under the Land Rights Act as it now stands?

**Prof. Altman**—My answer to that would be yes.

**Ms HOARE**—Thank you.

**Prof. Altman**—Mr Chairman, can I return to your question about royalties because I think this is a terribly complicated area, and we can go in a lot of different directions on it. You can understand that there is a tension amongst royalty associations which signed off on commercial agreements that basically had legally binding income streams to them, and they had based commercial decisions on those income streams. I am talking about the negotiated payments that are going to those organisations. Mr Reeves comes along and says that those moneys that they have negotiated for their use with mining companies are not their moneys. They are not private moneys; they are public moneys. Therefore, we will not allow you to keep those moneys. We will take those and transfer them to NTAC, which will then decide if you can have some of those back. I think as you travel through the Northern Territory you will get a fairly vitriolic attack on that proposal.

The other issue is whether the compensation payments, the areas affected moneys, are public or private. There is a diversity of views there. Nevertheless, my argument would be that traditional owners would not have signed off on major resource development agreements if they were not anticipating a compensatory income flow from those developments. They would be totally irrational if they did sign off on those sorts of agreements. It is a little bit like you agreeing to have your backyard dug up by somebody with no guarantee of any sort of compensation. So I think we have to be a little bit aware of the history of these income streams.

**CHAIR**—Yes, I understand that. Rest assured that anything this committee might recommend will not have a retrospective effect, unless the impact of it is carefully evaluated.

**Prof. Altman**—Even if it has a futuristic aspect, what I am trying to alert the committee to is that, if you are trying to facilitate development of Aboriginal land and economic benefit for Aboriginal people, you have to give them the right incentives to sign off on major resource development agreements, not walk away from them.

**CHAIR**—Yes, I agree. Let me say—not as a final view, because I have to keep an open mind and I struggle to do so and will continue to try—that it is equally apparent to me that another model has never been properly examined. That other model is to take away white man's model and let the true owners of the land, who have now been established as a matter of law, make their own arrangements to form together in whatever form they wish to administer their own land for their own people and to be accountable to their own people in whatever way they believe they should be, rather than white man trying to fiddle and add another layer to what has already been imposed.

**Prof. Altman**—Arguably, I think land councils are rather unique political institutions. They have certainly tried to accommodate the interests of traditional owners, but they have recognised that we are living in a contemporary world. Regional royalty associations under Commonwealth law and Corporations Law can have fairly flexible arrangements in the decision making processes and membership and so on. That statute was also passed in 1976 at the same time as the Land Rights Act tried to marry traditional Aboriginal decision making processes with requirements to be highly accountable for public and other moneys.

**Dr Martin**—I would like to draw your attention again to the fact that Mr Reeves's proposals do not address that issue. In fact, they would make it more problematic because the structures that he suggests should operate—these regional land councils—would dilute or possibly remove the capacity of locally based groups of traditional owners to make decisions about their lands and the resources that may be distributed from them and put it in the hands of a regional body which, as we heard last week, may well have other people making the decisions.

The current act gives the power of the kind that you were talking about to local groups of traditional owners through the informed consent provisions by which, although the decision is, as we have heard, signed off, ratified, sealed and indemnified by the land councils, decisions have to be made with the informed consent of that group. It attempts to balance the demands of two competing, if you want to put it that way, or conflicting systems. One is based on rights of local groups and the other one—our system, the wider system—demands certainty and security for resource developers.

**CHAIR**—I am not saying it is right or wrong, but it does not give the majority of Aboriginal people, who are not traditional owners, any rights at all, except to be consulted.

**Mr SNOWDON**—And to benefit.

**CHAIR**—If the decision is made.

**Mr SNOWDON**—I am a resident of Narrabundah. It does not give my neighbour any right to benefit out of anything that is developed out of my property either. I think it is an erroneous argument, frankly.

**Mr HAASE**—I am going to address this to Jon Altman. With the questions that you have fielded so far, it is quite clear, to me at least, that you accept there is room for improvement in the act. It is also, I perceive, your desire to be involved in change. Your groups have been asked to comment on the report and in the main they have come up with a great deal of criticism as to why it will not work. I have not seen a great deal of evidence from anybody giving alternative suggestions. I am quite frankly disappointed by that. The main criticism in my mind is always based on the structure that Reeves proposes. Also tonight during this evidence there has been a quantity of speculation from you and your group with regard to what might hypothetically be the situation, given such and such.

You might comment on a structure that I will suggest, with slight modifications to the structure proposed by Reeves and ABR funding, various forms of funding, injected into, for the sake of agreement, 18 regional land councils. Those 18 regional land councils would have an elected representative sitting on a group that at this stage we might call NTAC, with the chair of that group being confirmed by the minister and that group being funded upwards from the 18 regional land councils. Would you care to comment on that, please?

**Prof. Altman**—With the identical ABR distribution formula, so 40 per cent of royalty equivalents going to the 18 and 30 per cent to areas affected?

**Mr HAASE**—I am quite prepared for us to agree that my proposition involves a formula that you and I would agree on, because that would obviously be the one that you would see as most likely to work.

**Prof. Altman**—I am attracted by your suggestion that at least there will be elected representation of NTAC. I think that is certainly a lot more acceptable than nomination. I guess a lot of our discussion this evening has been about the diseconomies of small scale in having—

**Mr HAASE**—I am sorry to interrupt your answer, Jon. I did leave one key factor out. What I am talking about is necessary staffing of the regional lands councils for day-to-day business, but the NTAC holding shared professional resources: anthropologists, negotiators and others who are deemed to be required in the day-to-day activities from time to time of the regional land councils, rather than constant employment in each regional land council.

**Prof. Altman**—I am sorry if you feel that some of what we are saying is not presenting enough of an alternative model. My feeling about the model you are putting forward is that it seems to me that in some ways what you are suggesting here is very similar to the regionalisation process that the Northern and Central Land Councils are undertaking at the moment, which is for the two major land councils to maintain the core staff with the centres and having staff at the regional level.

Of course, the membership of the Northern and Central Land Councils comes from the regions. They are representative of Aboriginal communities throughout the Northern Territory. You are suggesting one elected representative. At the moment the ratio might be more like 10 per region. I am not quite sure what the difference is. The major difference I would see in what you are suggesting—and again it has a certain, if you like, economic attraction—is to amalgamate the CLC and NLC, the two major land councils. But I would

argue that there are sound historical reasons why you have got those two major land councils. They cover a very large jurisdiction. I daresay that for economic reasons I could put to you that we should amalgamate New South Wales and Victoria, but I do not think that is going to happen.

**CHAIR**—Make sure they fix their roads first!

**Dr Martin**—Could I make a very brief supplementary point? There are reasons from both the indigenous side and the kind of thing that Jon Altman was talking about, the economies of scale, why it would be more effective to have larger organisations through some decentralising mechanism, rather than the kind of model you are proposing, which you might see as a confederation model of autonomous bodies. Essentially, if we just focus on delivering certainty to resource developers, issues to do with boundaries, exploration licences and so forth across boundaries, for argument's sake, to just look at that, become very difficult to manage when you have the kinds of autonomous bodies in a confederation that you are suggesting, but are much more easily dealt with under the umbrella kind of system, in other words the mirror image of what you are proposing. That kind of issue is something which I know CAEPR would be more than happy to prepare some further information for the committee on if it sees this matter as relevant.

**Prof. Altman**—I do take on board your comment about our discussions, and it does surprise me that you have not quite chased what our preferred models would be. I guess I should just say that, if you have questions about any particular area of our preferred models, we certainly have got views. We do not have a CAEPR view, but as independent academics we have our own views.

**CHAIR**—Could we have them by 30 April, please? I mean that sincerely.

**Prof. Altman**—If you send us particular questions, we will give you responses by 30 April. The more time you give us, the longer they will be and the more thought through, but you are more than welcome to put those sorts of deadlines on us.

**Mr HAASE**—I was not specifically critical of the evidence that your group is giving. I am speaking very generally about the whole raft of evidence that we have collected since starting this review.

**Prof. Altman**—Right. Another point I was going to make, just to follow on from David, is that you often get pressures for decentralisation in all areas of political life, but I think one of the messages that might not be getting through to regional land councils or any proposed regional body at the moment—and it is certainly not one that is mooted in the Reeves report—is that the major land councils do indemnify resource developers that they have found the right traditional owners to consent to development. I think that that indemnification is extraordinarily important in terms of certainty. The smaller the body, the less likely it is to be able to pay up if it is sued in its corporate name for delivering the wrong traditional owners.

One of the bottom line efficiency arguments is that if you have critical masses of staff, if you have professionalism, you are far more likely to get it right than if you have a regional

office of a land council sitting in what we have seen as one of the most resource active areas, say, Tanami. I am not quite sure where they would sit; they might sit at Yuendumu or Rabbit Flat Roadhouse. But you are not going to get the sort of expertise out there that you will get in Darwin or Alice Springs.

**Mr SNOWDON**—There is an office at Yuendumu, though.

**Prof. Altman**—For the CLC?

**Mr SNOWDON**—A new office.

**Prof. Altman**—But I do not think you will get the expertise there that you will in Alice Springs, or the critical mass. Last week we were talking about the staffing of these bodies. It is extraordinarily important that you maintain high quality staff in land councils, and to some extent that you give them some sort of career path through these organisations. You will only do that if you have a critical mass of staff in particular areas. It might be a legal section, an anthropological section and so on.

**CHAIR**—Might I add, that is provided the Aboriginal people want that. After all, it is their land, isn't it?

**Prof. Altman**—Yes.

**Mr WAKELIN**—In the analysis of the regional land councils and the mining activity, the column on the right, exploration licence applications, that is the total, isn't it? It is the total activity of Aboriginal and non-Aboriginal land?

**Mr Pollack**—No. The first column without the parenthesis is the number of exploration licence applications that will actually overlap into a particular region as recommended by Reeves.

**Mr WAKELIN**—I think I understand that in terms of the overlapping. I was just trying to understand whether that is the total mining activity in the Northern Territory.

**Prof. Altman**—No, it is only Aboriginal land.

**Mr WAKELIN**—That is what I thought. Thank you.

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

That this committee authorises publication of the evidence given to it at the public hearing today.

**CHAIR**—Before I close the public meeting, I would again like to give thanks to the witnesses for their help today and for their papers, to *Hansard* and to our staff for the efforts they have made to get us to this stage and for the efforts they continue to make for us. To the members of the public and the community who are here today, thank you for your attendance and interest.

**Committee adjourned at 6.12 p.m.**

