

**PAPUNYA — Monday 10 April 1989**

**PUBLIC MEETING**

PRESENT -

**Committee:**

Mr S. Hatton (Chairman)

Mr B. Ede (Deputy Chairman)

Mr C. Firmin

Mr W. Lanhupuy

Mr D. Leo

Mr R. Setter

**Officers assisting the committee:**

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

**Appearing before the committee:**

Mr Mike NIELSON

Ms Alison TOBBY

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

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Mr HATTON: Could I start talking. My name is Steve Hatton and I have got with me Brian Ede and Col Firmin. We are from the Northern Territory Legislative Assembly. Our job is to go round to talk to people about writing a special law for the people of the Northern Territory. We are all members of the Legislative Assembly, the Northern Territory parliament. If you look at the back of this book we gave you, you will see a page like that. It has got a picture of all of the members of our committee. In the government, lots of times we argue among ourselves. The Labor Party and the CLP argue about a lot of things. This time, it is different. This time we are both saying the same thing and we are working together. On this committee, there are 3 men from CLP and 3 men from the Labor Party. Brian Ede from the Labor Party is the deputy chairman of the committee. Col and I are CLP. I am the chairman. We are sharing all the work on this one.

You have heard lots of talk about the Northern Territory becoming a state. Some people think that is a good idea and some people think it is not a good idea now. We are not asking you if you think the Northern Territory should be a state or not. That is not the question. You must be very clear that we are not asking you if you support statehood. We are not asking you if you are against statehood. That is another question for another day. What we are asking you to think about is that, one day, whether it is next year or in 5 years or in 10 years or even in 20 years, the Northern Territory will be a state. But, before you can even think about that question, you have got to say what sort of a place you want the Northern Territory to be. What sort of law should you have? All the people need to sit down and think about what sort of a place they want the Northern Territory to be and write a special law, not one made by politicians but a law made by the people, to go on for a long time, where the politicians cannot change it. It is a law that tells the politicians what they can do and what they cannot do and protects the rights you want to protect and you do not want a government to play around with. You want your right to vote and you do not want a government to take that away. You want your land and you do not want a government to take that away from you. You want your culture and your language. You do not want government to be able to play with

that. You make a special law for those sort of things that the government cannot touch. The only people who can change that law are all the people.

We call that a constitution. It is like when, in this community, you set up a community association, a community council. The first thing you had to do was write the rules, your constitution. That is the first thing you have to do. After you do that, you then start to make it work. You say what the council can do and what the council cannot do. You say it will do this job, that job and your rules tell how you elect the council. The same thing for the whole of Australia. They have a constitution for the whole of Australia and it says what the government can do and what it cannot do. It says what the courts and the judges can do and cannot do. It makes those sort of really important laws. I know that Aboriginal communities say that they look at the white man's law and it is changing all the time. People ask why it keeps changing because Aboriginal law is there forever. It keeps going. This is one sort of white man's law that does not change. This is the foundation; it is the rock. You build up your place. It is where you protect your rights as people and stop the government from being able to touch them and hurt them. Our job is to go around, talk to people about this and to say: 'We want you to come and tell us what sort of things we should be writing into this law and what sorts of things you want to put in this law'.

Now I am not going to tell you that you can do this and you cannot do that. You have got to tell me. Not today, because you need to think about this. It is very important because, when we write this law, it is a law that is going to be there, not just for us. It will be a law that will make this Northern Territory a good place for our children, our grandchildren and their children. It is a very big law. It does not change. It sets the ground rules. It sets the rights. It puts things there that protect us as people. All of us. We must work very hard to make sure it is a good law because, if it becomes a bad law, it is a bad law for a long time too. We have got to really think hard, all of us, talk to the community and think what we want in there and what we do not want in there.

This book is a start to give you some ideas of different things that might go into a constitution, into this law. But that is just a beginning. Our committee has been working now for 3 years on this. When you look at that and you say, 'That doesn't tell me much', then I give you this one and this one. There is lots of work. We looked all over the world. We looked in different states of Australia, we looked in Canada, in the West Indies, in Africa, in America - all the different things they put in their constitutions. We put them all down here and all the arguments - this is good, this is bad. There are things in here that I do not agree with. There are things in here you probably will not agree with but we put it all there so everyone can see all the different things. You might look in here and say that we have forgotten about something else. That is what we want you to tell us.

We are not going to do that quickly, are we? We are going to need time. Your community is going to need time to read, to think, to talk. The council needs to talk as a community. Talk to other communities. Get an idea of what you want. We will come back later this year, maybe in October/November. We will spend time, sit down, and you can tell us then what you think. If there are things in here you are not sure about, things you want to find out more about, you go through Neil Bell, Brian Ede, myself, whoever. Ring up our committee or write to us. We will send somebody out to talk to you or send you more information so you can take that away too in order to learn and think about it.

When you are ready, you can tell us what you think. You can have your say. We are doing this all over the Northern Territory. We have been up to VRD, we have been out to Kintore and Docker and Finke. We are going up to the Gulf and to Arnhem Land. We are going to all the big towns. This time, we are going to 59 places to encourage people to sit down, think about this and have their say. When you do all that and when we come back and you tell us what you are thinking and all the different people tell us what they are thinking, our committee's job is to sit down then and look at all that and write out what we think all the people are saying. We prepare what is called a draft constitution.

But, we are asking you a second question because you cannot trust the politicians only to do this job. It has got to be done by the people. This job is a job for the people to do. We want to put together a big committee of people from all over the Territory and their job will be to take our work, all the things you have said, all these things, and go through that book again and say: 'Yes, we like this. No, we do not like that'. They will shape it up again and talk it through it again. When they finish their job and they have got what they think is the right one, then it will go out to all the people to vote on. If the people vote yes, then that will be the law. If the people vote no, we will have to go back and start again.

We will keep working until the people say yes. The people have got to say yes, not the politicians, not the government. It is the people's law and it will never be able to be changed except by the people so it is a very strong law. As I said, it is a law where you get your rights. We said it can be the sort of thing where you protect your culture, your language. It can be

the sort of thing where you can protect your land. It can be stronger even than the Land Rights Act. But you have got to think about that. You have got to talk about that. You have got to work out what you want because this Northern Territory is your place, my place, my home, your home. Together we have got to start writing a law for the people so that we can all live together in this place and live together with respect for each other and protect our rights from politicians. You cannot trust the politicians with your rights. We put it so only the people can touch that. And a constitution does that.

The Northern Territory is the only place in Australia that does not have one. The Canberra government has got one, Queensland has got one, Western Australia, South Australia, New South Wales, Victoria and Tasmania - they have all got their constitutions. We have not. And the federal government can do what it likes to us. The Northern Territory government, under the Self-government Act, can do something too. This way the Northern Territory people make the rules and that is a strong thing. It is a law that will last a long time. As I said before, we must do this job because, whether it is in 5 years or in 20 years, one day we are going to become a state and we have got to have this sort of law in place so you know what you have got and what the government cannot touch. If one day we become a state and we have not done this job, then maybe the Canberra government will give us a constitution and we do not get a say and that is not good. It has got to be the Territory people who make these rules. We have got the time now. We should use the time to think as Territorians what we want.

I just ask you please, for your sake, for your future, for your children's future and your grandchildren's future, to take on this job, talk seriously, think and have your say about this. It is the most important law in the Northern Territory. That is what it will be. I ask if Mr Ede would like to say something.

Mr EDE: I am Brian Ede. My electorate is all that area out from Nyirripi, Papunya, Lajamanu, around Willowra, Napperby and right around that country up around Mt Allan, going all the way east right across Lake Nash, Ali Curung and all that area around there. But, as well as that job of looking after all that mob around there, I am also Deputy Leader for the Labor Party for the Northern Territory. That is why I came on to this committee for the constitution. I do not think we should be talking about statehood now. I do not think we can talk about statehood because what is that statehood? We do not know who has got the power. We do not know what it is going to be? We have got to talk first about what that statehood is going to be, who is going to have the power? How we are going to make that thing work so that Yappa mob and Kardina mob can work together? How can we ever say they are not fighting each other and that we are not having one law coming up this way and another law coming that way and all the time the 2 having trouble like that? How can we make it so that everybody goes together - 2 laws together like that going side by side? That is the only Northern Territory is going to be strong. And to me, the best chance to make that happen is through our constitution. We say a constitution first.

Now a lot of Aboriginal people say to me: 'Look, we want the federal government to look after land rights, we want the federal government to look after sacred sites. We do not trust the Northern Territory government'. I understand what people are saying from that angle. I do not trust Northern Territory government. I do not trust CLP and that is why I gone Labor party. But, I don't trust the Liberal Party, National Party down in Canberra either and they might change over from the Labor party so I am frightened for what might happen in Canberra as well. What will happen if the other mob get in there and they take away land rights and we have got nothing to help it and make it strong? That is why I am thinking about a constitution for the Northern Territory where we can put in those things here as well and we can put in there how we are going to make land rights really hard to change.

What are those things that we want to make hard to change? We know people want to hold on to that land. We know that everybody wants to look after sacred sites. We know about law. That law come down thousands and thousands of years and people want those things to be strong. Now they are strong for Aboriginal people; they never change. But, the Northern Territory government or Canberra government, they can make a law and change them again next week and change them a month later. They can push that law a bit this way or try and make it hard this way or wherever. It can go all over the place. But, in a constitution, we can put it in there so that they cannot change what is in that constitution unless everybody agrees or we can make it 90% have to agree or half have to agree or whatever.

Now this constitution that we are doing now, it could be a real bad one. It could be really rubbish. It will be really rubbish if we do not all get in there and look at it and work hard on it because, if we do not do it, a couple of lawyers and politicians up in Darwin are going to write it. They are going to write it and they are going to say, 'How are we going to write this one?' It is going to be how they want it from sitting down in Darwin looking at all that town mob and all the problems they have got with going out in the northern suburbs and going around the beach and off to the pub after work. They are the sorts of things that they are going to be looking at. They are going to be looking at it from Kardina way only.

If we get involved, they cannot go and make this constitution if all of the people from out bush, all the Aboriginal people are saying: 'No, that is wrong that constitution you have written up. That is no good'. If people sing out to Canberra and everywhere and say it is no good, they will not be able to push them out of sight because there will be a lot of people in the Northern Territory standing up beside them. I know people even on the CLP side say that we have got to have a constitution that everybody agrees on. When we agree from Yappa side, Kardia side, and everybody agrees on how that constitution is going to be, that is how the Northern Territory can be a strong place going forward for our children, our grandchildren, everybody.

If we put into this constitution things that we do not agree on, we are going to fight and they are going to keep going. It might take us 5 years to work that constitution up, or it might take us 10 years. It does not matter. It does not have to be done in a big hurry. That is why we do not want to come out here and say, 'This is what we are going to do, and write it down and give it to you today. What we are doing today is coming out and saying: 'These are some of the things that everybody has to think about if we are going to be involved in this one. Think about them and we will come back and talk about them, write them up the first time, change them, send them out again, put them in language, put them out in tape, put things on letters, newspapers, send them around and people talk back'. That is what we have got to be doing. Little things might be changed. People might argue about one little sentence. They might say that they do not want it that way and somebody else will say that it should be that way. We will be arguing about that. That is all right. We can keep talking and talking about it for years. There is no hurry because, once we have finished it, it will be really hard to change forever and ever. We have got to get it right this time.

That is why I am part of this, because I believe that. I know that a lot of people right around the Northern Territory are saying the same thing. They are saying that it is a hard thing, that they are frightened of statehood but this one is first. Statehood is something that we can talk about after we get this one right. Let us get this one right first - the constitution. We can talk about it.

Mr HATTON: We are here to talk to you and to get you to talk to us. If you are not sure what we are talking about, ask us a question. If you want to tell us something about what you think, do that. I cannot say strongly enough that this is important. It is important for you. This is the way you make a law that does not change.

Mr NIELSON: (Inaudible).

Mr HATTON: We are not coming here for you to tell us what you think should be there. If we can go away today and you say that you want to sit down and talk about this among yourselves, we are happy. We have done what we wanted to do. You do not have to tell us now. I would rather you did not. You go away and think. It is to important.

Mr NIELSON: You just want to talk.

(Short discussion that is partly in Aboriginal language. Does not appear to be directed to the committee).

Mr HATTON: If you want us to send you more information, we will do that. If, when you meet, there are some things that you are not sure about, give us a yell and Brian Ede or Neil Bell or myself or someone will come out to talk to you and then you can go away and think more about it.

Mr EDE: You want to think about which way you want things going backwards and forwards to us. You might want to have a meeting and put things down on tape. You can put them down on tape in language and just send them into us and we can get someone to interpret them and write them all out like that. We do not want the old people to be cut out because they find it hard to speak in English or something like that. We want the old people to be able to tell their stories and put them down on tape and we can get them all written out and they can be part of it too.

Mr NIELSON: Yes ...(Inaudible).

Mr HATTON: The only way you can do that is through a constitution.

Mr EDE: What is the best way for us to send things back? Should we get things in language and put them on tape or send them out like that or in a newsletter?

Mr NIELSON: No, unless you and Neil Bell can come back.

Ms TOBBY: You and Neil Bell come back and tell ... (Inaudible).

Mr EDE: We can work it that way, but I thought we might send out tapes as well so that, if something comes up and somebody is saying something particularly out in Arnhem Land, then you will be able to hear what they are saying and they can hear what you mob are saying.

Mr HATTON: But, as a committee, we think we may come back towards the end of this year. You have plenty of time. It does not have to be done in 2 or 3 weeks. We are thinking of maybe October or November. You have got plenty of time to talk and look at all the different things. No rush. I would hate to come back in October and say, 'Oh, I forgot to do that job'.

That book there has got some basic ideas. This is the important one because it has a lot more stuff in it. If you want to ask how the parliament will work, you look in here and it asks you lots of questions about how many politicians you should have, who has the right to vote, who can stand for elections, what they can do, how long there is going to be between elections - all those sorts of things. You protect your rights. It says what the judges can do and what the courts can do. Can the Administrator sack the government and, if so, when? There are lots of funny questions like that. They are all talked about in there. There are a lot of extra things in here too. It talks about things like your rights. Do you put land rights in there and, if so, how far do you go to protect land rights? When you are talking about this, you have to think not only for Aboriginal people but you have to think for the non-Aboriginal people too. To the people in Alice Springs or in Darwin, I say that they have to think about the Aboriginal people too. They cannot just think about the white people because we have got to work to become one place.

(Inaudible discussion obscured by what sounds like a radio).

Mr HATTON: I want to look at some of the things they are doing in Canada and other places. I believe they are doing some things over there. I want to go across there in September.

Mr EDE: Papua New Guinea has always had a recognition of customary law. They have a law over there that says that they have to recognise customary law. That is something that we have to talk about here to see whether that is going to be part of it.

Mr NIELSON: That is right. We should have customary law here too.

Mr HATTON: We are talking about the committee maybe going up to Papua New Guinea to have a look at that. We are trying to learn as much as we can too so that, when you ask questions, we have some information to help you. This job has not been done in Australia for 100 years. When they made the whole federal government and the Australian Constitution, it was 1901 when they finished it. It was 90 years ago when they finished the job. Over 100 years ago, they started it. All the states made their constitutions over 100 years ago. This is a new thing. Do you remember that, last year, you had to vote in the referendum? That was about the Australian Constitution. Everybody said no and therefore the federal government could not do what it wanted to do. The people control the law. I guess we have said all that we need to say. Thank you very much.