

PUBLIC MEETING

MILINGIMBI — Thursday, 4 May 1989

PRESENT:—

Committee:

Mr S. Hatton (Chairman)

Mr B. Ede (Deputy Chairman)

Mr C. Firmin

Mr W. Lanhupuy

Mr D. Leo

Mr R. Setter

Officers assisting the Committee:

Mr R. Gray (Executive Officer)

Mr G. Nicholson (Legal Adviser)

Appearing before the Committee:

Mr Kenny DJAWULMA

Ms daisy BAKER

Mr DJUPANDAWUY

Mr Henry DJERRINGAL

Mr Joe PETERS

Mr Frank FARLEY

NOTE: This is a verbatim transcript that has been tape-checked. However, due to poor recording, or many people speaking at the same time, some of the recordings were inaudible and unable to be transcribed.

FINAL EDIT:27 February 1991

Mr HATTON: Thank you for gathering together to give us a chance to speak with you today. If I may introduce myself, my name is Steve Hatton. I am the chairman of a committee of the Northern Territory parliament. I have with me someone you know really well, Wesley Lanhupuy. He is also a member of our committee. In the book we have just circulated around, if you look at the back page, you will see there the pictures of the members of the committee. There are 6 members of our committee and it is different to all the other committees of the parliament, because this one has 3 people from the government, from the CLP side, and 3 people from the Labor Party side. The same number from each - 3 and 3. This is the only committee this parliament has ever had where the numbers are equal. That is because, on the subject we are talking about today, the Labor Party and the CLP people in the parliament are all working together. We are not fighting on this one. We are all working together and trying to fix this up rather than having big arguments all the time.

What we are doing is going around to start work on writing a special law for the Northern Territory, or to help the people to start to write a special law for the Northern Territory. It is called a constitution. It is a new thing. We are not coming today to ask you to tell us what you think should go into this. We have come to explain what we are doing and to ask you

to start to think about this, to talk about it in your community and to get some ideas together on what you think should go into this law. We will come back later this year or maybe early next year, and you will then be able to tell us what you think should go into this law. So today we are here to tell you what we are doing, not to ask you to tell us what you think we need to change. We are here to ask you to help us and to help yourselves in making this law.

A constitution is a different law to the sort of normal stuff you hear about. You know that governments come in and they make laws and the laws are going that way, and then they change the government and suddenly the law is going back this way again. It keeps changing backwards and forwards. That confuses a lot of people. Particularly I know that Aboriginal people say: 'Why can't the white people make up their minds where they want the law to go?' Aboriginal people have their law and their law has been there for thousands of years, and it keeps going the same way all the time. It does not change. It tells people how they have to live and what is important in how they should live and how they mix with each other. Your law gives the people their rights and everything and it puts it all together and it is always the same. It is where your life is built.

In the white man's laws we have one special sort of law, called a constitution, which is like that. It is a law that is not made by the government. It is a law that is made by the people. The people write this law and they put this law so it is the boss over the top of the government. It tells the government what the government can do and it tells the government what it cannot do. It says: 'Okay, this is the way we are going to go. This is how you are going to work with each other, how you are going to live together'. It includes your really important rights, the rights that you want to protect, rights that you say are so important that you do not want any government to muck around with them. You say that you are going to make them safe and put them in this special people's law. You put that there and you say: 'That is the way this Northern Territory is going to go'.

That is when the people say that, and the government has to work under that. It cannot go outside that law and the government cannot change that law because that law is made by the people. The only way that law can be changed is if all the people say they want to change it. It keeps going the same way all the time unless all the people say: 'Oh, we will make a little bit of a change, but only a little bit', whatever.

Do you remember that, last year, you had to vote in what they call a referendum to amend the Australian Constitution? They had to ask you. You had to vote 'yes' or you had to vote 'no' on 4 questions. Do you remember that? Well, that is the same sort of thing. That is the constitution that sits over the top of the government in Canberra. That is the law that tells them what they can do and it tells them what they cannot do. Last year, the Canberra government wanted to change that law, but they had to go and ask the people, didn't they? And the people said: No, we do not want to change that law.' So the government could not change it. It is the people's law.

That is what a constitution is and all the governments in Australia, all of them - in Canberra, New South Wales, Victoria, Western Australia, Queensland, South Australia and Tasmania - they each have a constitution over the top of them. Only the Northern Territory does not have this law.

We do not have that law. No one has ever gone to the people and said: 'You tell us how you want this Northern Territory to work. You write the law'. They have never done that before and, because we have not got this law for the Northern Territory, what happens is that the government in Canberra can do whatever it likes in the Northern Territory. There are no limits, no rules over the top of them. They can do good things or they can do bad things. You cannot stop them, because they have got the power because you have not written that law. Even just having any sort of government in the Northern Territory can be affected. I am not saying they will do it and I do not believe they will. I am sure they won't, but that Canberra government has the power, just by repealing an act of parliament, to wipe out all forms of government in the Northern Territory. That can be done quite simply by repealing the Self-Government Act. There would be no government here and you would have no right to vote for a government in the Northern Territory, no matter which side you vote for. They could wipe it out. You have no guarantee of even having a government.

By amending a regulation under a federal act of parliament, they could wipe out the entire Northern Territory education system, by removing the power for us to provide education. They have that power because we do not have a constitution here, and that constitution in Canberra does not give us protection either. The federal government can do what it likes, because we are a territory.

We are coming here to ask: 'How do you want this Northern Territory to work. The parliament in Darwin, how should that be made up? How should the courts work?' There are a lot of hard questions there, and that is why I do not want you to tell

me now what you think. I have some stuff here for you to look at and read and talk about. If you want it, someone can come back here and talk about bits and pieces with you so that you have a chance to think about it and talk about it as a community and, when you have got your ideas together, then you come and tell us what you are thinking. That is why, as we say, maybe at the end of this year or maybe early next year, we will come back and we will say: 'Now, what do you reckon should go in here?'

So we are saying now that it is really important. I am trying to say: this is a most important law. This is a law that you put down and it will make the Northern Territory go the way the people want it to go down the road together.

If we do that job well, we can work out for example how yolgnu and balanda can go side by side down the road together and stop this fighting. We can work out how to do that by talking to each other and making a law that says how we want to go together. And you say there your rights that are really important. You might say that you have to have a right to vote. No one can take away that right to vote in elections. So you put that in there so that no government can touch it.

Or you might say: 'I don't want any government mucking around with sacred sites. So I am going to put in there that the sacred sites have to be protected.' Right? You can do that. That is when the people make the law. Then you have to go and talk to the balanda and explain to them why those things are important, so that they understand. That is how we all come together and, when people understand each other, we can make that road.

It is not going to happen quickly. It will take a lot of work. We are just starting down the road now, and I am saying I want you to start thinking about it. As I said, we will come back later this year or early next year and you will give us some ideas, but that is only the beginning, because we are going all over the Northern Territory to communities all over the place. We have been to Kintore and Finke, over in the VRD and all over the place, and in Darwin and Alice Springs and we have been saying the same thing. They will have their ideas, and you will have your ideas. So you have all to start telling each other what you are thinking so that you can think about what the others are saying. You may agree with another person or you may not, or he may have thought of something you did not but that you think is a good idea. Or, to start, you may say: 'I do not like that' and then, when you start thinking about it, realise it is a good idea.

We have to start to put some of that together, but don't trust us to write this one. Don't let the politicians write this law. I ask you, don't let us do that. The people must write this one. What we are going to do is just get the ideas together and what people are saying and then we want to put together a big committee, called a constitutional convention. That is like a big committee of representatives of people from all over the Northern Territory. They must be people that can speak for you, people that you trust to speak for you and who you trust to go to this meeting as your representatives. We want to bring them all together and they will look at the work we do and they will say: 'Yes, we think that is right' or 'We don't like this. We think it should be that way'. Then they will talk about it and they will change it around and try to get it to say what they think the people are thinking.

When they have done that job, and they say: 'Right, that is what we reckon this constitution will be like', then it goes out and all the people have to vote in a referendum. If the representatives have done their job properly and the people say: 'Yes, that is good' and the people vote 'yes', then you have got your constitution. But if you look at it and say: 'No, it is not quite right yet. There are a few things I am not happy with yet' then you vote 'no'. Then they will go back and work on it again and they have to keep working at it until they get it right.

This law, when you make it, will be much like Aboriginal law. It is going to be there and it is going to keep going, so you have to make sure you have got it right for the future. It is a law that will help you a bit, but mainly it will help your children and your children's grandchildren, and people in 100 years time. This law is going to work for them. So you have got to do the job properly. It really is important when making a law like that, that you have your say and you make sure you do not get forgotten, and that the things that are important to you are written in that law. That is why we have come around now to say that you have to start working on this one. It is too important. You cannot walk away from it. If you walk away, someone else is going to do the job and, in 5 years time, you will say: 'What is going on? You forgot about this and that', and that is not going to work, is it? You have to make sure what you want and what you need - what is important for you - is there in that law. That is what we are working here for. We have come here to say we are going to start doing that.

We did not just come to say that it is all open. We have been doing a bit of work. That book we gave you will give you some ideas, just some ideas. But that book is only a beginning. We have also got this one, this big one. We will leave some here. That big one has a whole lot of ideas. We have spent about 3 years working on this one. We looked at constitutions

all over the world - in America, Canada, Africa, the West Indies and all round Australia. We looked all over the place, at different ideas and we saw some different ways that they have done. We have put them in here. There are some things in here I do not like, and there will be some things in here you do not like. There are other things in here you might like, and there are things in here I like, but they are all in there, all that we could think of. There might be some things that we have not thought about that you think about, and that is why we have come around now so you can start reading and thinking and you can tell us that, and put them out. You tell other people and everyone will start talking about it.

That will give you some more ideas to start talking about. That book asks a lot of questions, just one question after another and that goes for 11 pages. We wrote out all the questions that are in that book - just the questions - and that makes it a bit easier because there is just one question, one little thing at a time to look at. You work that one out and then go to the next question and talk about that one and, bit by bit by bit by bit you work through the whole thing. So it is not frightening. It is easier to work through that way. Then, if you say: 'I do not understand all the words in this. It is too complicated and I do not know what that means', please give us a ring and we will get Wesley or myself or someone else, maybe this man here, Mr Nicholson who is our lawyer, to come out here and talk to you about that so you can ask what it means. Then you can go away and think about it.

We are here to help you to start thinking about it so you can come up with your ideas and you can make sure you know what is going in here and that, at the end of the day, you are happy with what is going in there, and you are putting your ideas into this law. That way this law will become the people's law and that will set the future for our grandchildren - all of our grandchildren. That is the way we can work out how we are going to make this Northern Territory go the way the people want it to go. All the people - together. Maybe it will help us to sort out how to get around all this nonsense and fighting that is going on and make a good place for our grandchildren, if we do this job properly.

If we say: 'That is too hard. We are not going to do it', and we put it aside we will leave it with all the problems and your grandchildren are going to look back and say: 'Why didn't those old people do that job for us? Why did they leave their mess behind?' If you do this job properly, your grandchildren will say: 'Those old people did a good job for us. They made this Northern Territory a good place for us to live and they met their responsibilities well for us'. So, it is not just an opportunity, it is a duty, an obligation you have to your grandchildren and to your great grandchildren. I have the same obligation to my grandchildren and my great grandchildren. We have to make this place somewhere for them. We want to make it the sort of place we want it to be for them - how we want this place to go so they will be properly looked after in the future, and we have to make this law as a start to it.

That is what we are here for, to tell you about what we are doing and to say: please start thinking about this one and start talking about it amongst yourselves. Get your ideas together and be part of this. Help us to do this job for the future for the Northern Territory, for the future for your community.

Thank you. Wesley, would you like to say a few words.

Mr LANHUPUY:

I will have to use two different languages, right? Steve has already told you earlier today that this committee is from the Legislative Assembly - the Northern Territory Parliament. There are six people on this committee - three from the Labor Party and three from the Country Liberal Party. He himself is member of the Country Liberal Party and I am in the Labor Party. That makes six of us on this committee.

We are going around visiting over fifty-nine communities here in the Northern Territory. The reason for this is the constitution - the law. Maybe later on, one of these days we will be living under this paper - this law. That's why it's important for us to go around explaining to you people about this constitution and ask you what you think about it. You can write to us and tell us and if you want us to explain to you again, we'll come back and talk to you to sort things out. If you find it too hard to understand, we'll discuss it in more detail.

In this paper there are a lot of matters that are important. For example, the parliamentary system and who we will elect to our Parliament? How will the legal system work here in Northern Territory? Let's put our ideas in this paper (draft constitution). There are other issues like do we want our land rights to become permanent? Do we want bilingualism? Let's do it. This constitution will make all of these things strong. At the moment our Land Rights Act is clinging onto an act of parliament and it's easy for the parliamentarians to throw our Land Rights Act away if they want. Let's put land rights into a (constitutional) law so it will become permanent and overcome the

power which the Parliament currently has. It's important for us Yolgnu people to start talking about this paper because later, in the future, it will also help our children and our children's children.

Let's all have a look at this, especially at the land rights side. I've mentioned land rights because its important on our side, the Yolgnu side. At the moment Canberra has got the power. Canberra is looking after us. And one of the reasons why these two parties are supporting this constitution idea is that we feel it's been too long that Canberra has been giving us the orders, jobs, laws, an education system and running other areas. Lets ask Canberra for the power to do these jobs ourselves in the Northern Territory.

This law is like, for example, if I get bored staying in Galiwinku or Milingimbi, I go away to my outstation and work for myself and make decisions on my own - on the ground decisions. That's what we're all heading for. One of these days we hope we will see this happen and achieve it, then we'll be under the power of this paper.

Constitutional development is the process, that we (the committee) are working on now - developing a law on how we are going to live and work and exercise our rights here in Australia. Every other state has got their constitution. But us, the Northern Territory people, don't have it. At the moment we don't have Statehood - we're working under the Self Government Act at this time and we don't have a constitution. That's why the Northern Territory Parliament are saying, "Let's look at this paper". In the end the power will be in the community for the people. The Parliament won't have it again, not even for us, those people you mob vote for every three or four years. This constitutional power will overcome the Parliament's power.

Steve has already told you that if they want to change this law then the whole of the Northern Territory will have to vote to change it. We can't do it - we can't change it. With this constitution our laws will be put into a paper, and we won't be able to play around with it. Only the Yolgnu and Balanda living in the Northern Territory will be able to vote for it, if you agree to change it.

And that's why it's important for us Yolgnu people to talk about it. If you're finding it hard to understand this then I will have to come back with this man here, our lawyer, and we'll explain everything again to you to make it clear - land matters, law, parliament, the self -government act, how will we put this government into laws, and there are many other things.

Those green papers (pamphlets) over there, if you want to read them, they will tell you everything they will give you lots of information. Most of those stories in the green papers appear here in this book (showing it to the people). If you read this book it will tell you what you need to know and what you can do.

It is very important for us meeting you and talking to you. We are visiting sixty communities. Steve has told you that we've been to Yarralin (can't hear) Kintore, Finke, Urapunga, Roper, Numbulwar. Yesterday some of them went over to Gapuwiyak and Galiwinku and today we'll be going to Ramingining. The important thing is for all Yolgnu people to start telling us your views. We have to start collecting information from you mob and hearing what you have to say. We don't want you to be discontented when it's too late, when the government starts to change their minds and say "Why are we giving rights to the Yolgnu and Balanda people". For government people like holding onto laws and keeping the power to themselves so they can control everything.

Ms BAKER:

Can we ask you some questions, Mori?

Mr LANHUPUY:

Yes, after I've finished talking, then I'll let you ask some questions. I will repeat it. This is really important, please let's all look at this very carefully. We are not saying, "Give us your answers now". That's not what we want, we don't have a time-frame on this one. Give us your answers maybe at the end of this year, or maybe next year. When everybody is satisfied then we'll all vote on it. This paper is processed in three stages. The first stage is going around meeting with you mob talking about this, advising you and asking for your views and your opinions. The next step is to have a Constitutional Convention. When it's time for this Convention we'll get different representatives from different organisations from all over the Northern Territory. They will all look at the papers submitted, read what we've written down. When they all come to an agreement then it will become a constitution. Then everyone will vote throughout the Northern Territory. If you all disagree to that draft constitution we will throw it away and

start all over again. If your answer is yes to the paper, then we will have a constitution voted in by you. We're going through three stages. It's important for us, this is my thinking - this paper is very important.

So what I want is to talk about this to you mob and let's discuss it. Children - it's a good thing that

you're listening to our conversation because later you too will have to vote for this (paper) - later on, when we will be dead and gone. This will affect you when we're dead. It's good that you've come along here. If anyone has any questions to ask us please do so. Any questions about laws, any questions?

Mr DJAWULMA:

Let me talk. Everybody listen and try to understand this. This is what it means. My culture, my laws, my customs and my land rights have to be put into this paper. For a long time Canberra have been interfering with our laws. I have worked for the Northern Land Council for a long time so I know. The laws in Canberra are not straight, they are still crooked. You all must understand this. The government in Canberra is always taking our laws away from us. If I die, then my children and my brother's children will grow up to have this law, our culture and our customs. You know how we never recognise each other or understand each other here in Yurrwi (Milingimbi). Whenever there's a ceremony held here, some people say, "Hey you mob let's go over to the ceremony." Some say, "No, you go, we'll stay." Or when a person dies over at Galiwinku, Ramingining, Yirrkala or Gapuwiyak, some say, "Hey, we have to go over to so and so for the ceremony." Then some say, "No, only you mob go, he/she belongs to your family." We must work together. Let's put a law in for our culture, not today but maybe we'll wait until next year. This is what Wesley meant by saying that. All of our laws and customs must be put down in this paper.

Mr LANHUPUY:

If you have any more questions to ask, ask us. (can't hear) The Balanda people too, nothing's stopping you from writing personal submissions to this committee. You will find all of the information necessary in the back of that booklet there or phone back to Darwin, reverse charges. Talk to this bloke here, the Executive Officer, anytime. Send anything you feel like writing in. It's not just for the whites and it's not just for the blacks. We're asking everyone to partake in this exercise. In the end there'll be a Territory Constitution.

Ms BAKER:

I just want to ask the (can't hear)... from the Northern Land Council about what I've just heard this morning from our two DEET officers. Is it true that this committee is going to scrub our land rights or anything like that? Is it true?

Mr HATTON: No, we are not taking your land rights, just the opposite. Now we have been saying all the time, the CLP and the Labour Party in the Northern Territory are both saying that we are going to guarantee the continuation of land rights. But, if you do not trust us, if you do not trust the government and want to make sure that the government cannot go back on its word, you put it in that law. You write it in the constitution and then the government cannot touch it.

That is what this law is. It is a law over the top of the government. You might say to me now: 'You might tell me now, but you might walk away and do something different'. Well, if you do not trust us, that is when you put it in there and you say: 'There, the land rights have got to stay'. That is what a constitution is. That is how you can actually make it stronger for you.

Ms BAKER:

That's one party talking, now we want to hear from the

ALP, Balanda ALP, not only Wesley, but on the Balanda side too. We want to hear from the Balanda ALP. You explain everything like the NLC, who have been translating a lot of this information to do with this subject, very wrongly (strongly) to Yolgnu people.

Mr HATTON: That is right. The NLC stuff is just wrong. They are saying the wrong things to you. It is just not true.

We have never said that we are going to take the land off you. We have never said that. We might say - and Wesley you

interpret this to make sure I get it right. Look, I ask you, do you think the Land Rights Act, all the words in that are perfect? Or do you think there are ways it might be able to be done better? I don't know and I am asking you.

That is one of the things the Northern Territory has been saying. If, in fact, it is going to become a Northern Territory act, we could go and sit down with the Aboriginal people and say: 'Is this how you want it to work?' We could ask you - not tell you. We have got to go and ask you, not tell you - we have to go and ask and talk about it as Territory people together. That is not saying I am going to take your land away. That is saying: 'Let us talk about it and how we are going to do it'. All right? But no one, not the Labor Party, not the CLP, no one wants to take the land away from you. And, if you do not trust us, if you think I am going to speak and tell lies and say one thing and go another way, if you do not trust me, then you make sure you write it in that constitution so I cannot touch it. Is that clear?

Mr LANHUPUY:

This is what this law is like. If Northern Territory people agree to have this constitution which include matters relating to land, law, parliament, self government, what's the other thing, local government. If you agree to having a constitution then people's rights, freedom of rights, religion and Yolgnu customs will be put into it. If we get this constitution, then it will include our land rights!

Then the Parliament in the Northern Territory won't have the power to break this paper, again. When this paper has been written down it will be returned to Yolgnu people to vote for in what is called a referendum.

At the moment our land rights are like the Governor General's ordinary papers. If the Labor Party in Canberra decides to throw our land rights away by an act of parliament they can, like what they're doing now with funding for education for Yolgnu people.

At the moment these are the things that we're exercising here in the Northern Territory - they're not in a constitution. We only have the Self Government Act. If we put all of our land rights and laws into this paper, then you people will be able to overcome parliamentary powers, because you are the ones who vote for us mob. That Constitution will then be well above the politician's heads. And the Yolgnu people will do the voting for this. It will return to Yolgnu people - the people will have power in the end. So if you want land rights entrenched so the politicians won't play around with it then lets look at this constitution. When the people want to change it they have to vote to change it. That's the only time when it can be changed.

Ms BAKER:

What about the ADC and DAA? We've been seriously thinking that they've been budgeting for us for a long time from the Federal side and we would like to see it done in the Territory because the Territory people know about our area better.

Mr HATTON: That is not a constitution question, but that is one thing. Once you get this written down and you say that that is the way you want to go and you have got that worked out in your constitution, then we can talk separately about whether your funding comes through the DAA or ADC or whether you do it through the Northern Territory government. We can talk about that with Canberra now. That is another question. It does not have to be the same as this one.

After you get all this together, you can ask later if you want to become a state. You can ask that question after we have done this job. If the people say that they do then we can all decide to go and talk to the Canberra government about who is going to do what - what the Northern Territory will do and what the federal government will do. We start talking to them about that then, but we cannot even start to do that job until we have written this law.

Mr LANHUPUY:

Yes, this is really important. At the moment Canberra

is taking care of our responsibilities. It's impossible for us to have those responsibilities because we don't have a constitution. They've got the power over us. Once we have a constitution, then we have the right to fight for our responsibilities for the Territory. Do you understand? This paper will broaden our jobs. If we don't have that paper we will still have to rely on the Balandas (Canberra people) for jobs.

Mr HATTON: There are many things like this that we have to talk about. It is going to take a long time and that is why we have to start to do this job. It will not be done quickly, will it?

Wesley talked about land rights. When you want to put that in there, you will have to go and talk to other people in the Territory too, and you will have to explain to them why land rights are so important to you, so that they understand. When they understand, that is how you stop the fighting occurring. This is not to make people one above the other, or that way around, but to try and make people equal and that is how we do that. That is why it will take some time to talk it through.

It will not be easy, and I reckon there will be a lot of arguments and a lot of talking, but you have to start, haven't you? If you do not start talking, you will never get it fixed up, and that is what we have got to start doing.

Ms BAKER: No, the NLC will say stay with the federal government.

Mr HATTON: I am asking you. You tell me that.

Ms BAKER: I would like to ask now (inaudible) that was here before, because we never ever get things (inaudible) nowhere. No, (inaudible). Like has been working in the area officer for a long time because (inaudible).

Mr K DJUPANDAWUY: Can I ask you a question because I believe there's a lot of different organisations and departments who have questions to the communities, different communities. They were talking about the same nhawi statehood, constitution. Have the Territory government asked these organisations or have they consulted with them. Because there'll be lot questions back in the communities, different communities, There'll be lot of questions about statehood.

(can't hear) Is it talking about the same thing when we talk about Statehood and a constitution? Territory Government... (can't hear). Have they consulted with them? Because there'll be a lot of questions back in the communities. (can't hear)... mori told us. There'll be lots of questions about Statehood.

Mr HATTON: To answer that, yes, we have tried to. We have written to the NLC, the CLC, the Tiwi Land Council and to all the other different organisations and told them what we are doing. We have sent them all that written material. We have asked them to make submissions to us. We have not done this in writing yet, formally, but I have spoken to them asking if can we meet.

I would like my committee to meet with the full Northern Land Council, not just the executive but the whole land council, so that we can talk about these things, but they keep wanting to fight us. We want to sit down and talk with them and tell them what we are doing. I think it would be better if they came and we talked together about this so that they understand what we are doing better. Then, when they go out to talk to the communities, they know what we are doing. We are not trying to take land rights away from people. We are not trying to fight the land councils. We are saying ...

Mr Joe PETERS: (Inaudible) by the NT government (inaudible) land rights (inaudible) ...

Mr HATTON: Never, never.

Mr PETERS: ... Aboriginal land rights (inaudible).

Mr HATTON: That was written by the land council. It was not written by the Northern Territory government. Wesley, has our government ever suggested we are going to take away all Aboriginal land rights?

Mr LANHUPUY: The Territory government?

Mr HATTON: Yes.

Mr LANHUPUY: (speaking in language).

Ms BAKER:

Yes, we got that pamphlet sent out with the Northern Territory constitution written up like that. Maybe I know who that's coming from. It was the news media that was in the Northern Land Council.

Mr LANHUPUY:

Joe Peter. There were two issues which they were mixing up, and it was bit confusing. One is Statehood and the other thing is constitutional development. If all of the people in the Territory are satisfied with the constitution then Statehood comes after that. Then in the end we may decide to get Statehood which is in line with what Gutjan (Daisy) was saying, when she said, "When we take responsibilities for ADC and DAA that will be Statehood". Let's work on Territory peoples' rights, our rights first. Once we get that, then we might say to the Federal Government we want DAA and other state type responsibilities in our hands. For example, they run DAA over in Queensland, the Department of Aboriginal Affairs in Queensland, Tasmania, Western Australia. You know they don't have land rights in Western Australia. They have land tenure system, because the State Labor Government has got power to look after Yolgnu land rights in Western Australia. For Northern Territory people - Canberra is looking after our Land Rights Act.

Mr DJAWULMA:

From faraway. We are here and they are there.

Mr LANHUPUY:

That's the difference; all the other states have got their own constitution but the Northern Territory people haven't. Maybe what you saw in the paper was in the media, maybe that was the newsletter. Of course, you will have arguments from interest groups like mining lobbyists, environmentalists, the Aboriginal land rights mob. A whole lot of people will be against this proposal because these people's interests are elsewhere. That's for you mob to decide. All we are saying is, "Here it is, think about it, talk about it and let us know". This is what we're saying. We are not rushing you - you do the thinking.

Mr DJAWULMA:

We want to step into this position and take on our own responsibilities, but they won't let us. These people that Lanhupuy was talking about reject us.

Ms BAKER: If they don't like us the Northern Land Council mob. They don't like us ...

If they don't like us the Northern Land Council mob. They don't like us to ...

Mr DJUPANDAWUY:

This is what midiku was trying to tell us about this constitution. Bapatji might have wanted us to understand the law for this Constitution, that's why he always asked us Yolgnu people to put our laws in this constitution. He went around to many communities trying to explain this to the people. He went around where the Northern Land Council's region is marked. I don't know but he might have a different story this time, after these the Territory government people have visited us. Then he might come from the Land Council and maybe have a different story on this now, I don't know.

Ms BAKER: Yeh, I know his tricks he's going to come out with a different story.

Yes, I know his tricks, he's going to come out with a different story.

Mr DJUPANDAWUY:

It's like that.

This constitution will belong to Yolgnu people if we put our laws in it, and it will become strong? I've asked this question because I was thinking about our Chairman. Sometimes he tells stories differently because the Territory Government themselves argue all the time they have fights with other organisations over laws.

Maybe this is what he's after. I don't know. What is his proposal for this Territory Constitution. How does he look at it? That was my question. There's a lot of other different organisations and those people in the Aboriginal organisations work for him. I don't know about this. What are their questions about this constitution?

Mr HATTON: Wesley, made a very good point. He said to tell all the white people they have a constitutional right to speak on this subject too. It is for everyone.

Ms BAKER: Yes, they should, instead of people fighting for 20 years.

Mr HATTON: But let me say this. A constitution takes nothing away from you. You lose nothing through a constitution. A constitution gives you rights. If you do not have a constitution, you do not get rights. When you have a constitution, you get rights. You cannot lose anything through writing this. All right?

When you write this, you are making the rules about what the government can do and you are making the rules about what the government cannot do. A constitution will not change all the other laws straight away, and normal legislation will still take place. In Canberra, they keep passing laws, don't they? But they have to pass those laws inside that federal constitution.

That is what a constitution does. It puts the platform down. It gives your rights to you, the people. It takes nothing away from you. There is nothing to be frightened of with a constitution. You should grab it and say: 'Good, I am going to protect myself with this'. That is what a constitution is. You lose nothing, and I do not know why people are saying you should not do this job. Why would they be saying to people: 'Do not protect yourself. Do not make your rights strong'? Why would they say that to you? I do not understand that.

Mr LANHUPUY:

Joe Peter - look at it this way. The constitution to us Yolgnu people is like a land rights for us. Our land rights are our land rights. We have got power with land rights. Now we will be asking for this constitution so it will become a land rights for Yolgnu people, this paper here.

Ms BAKER:

At the moment it's only by word of mouth in Canberra.

Mr LANHUPUY:

At the moment we get orders from Canberra.

Ms BAKER: They've got the power there at Canberra.

They've got the power there at Canberra.

Mr HATTON: We have a little power, through the Self-Government Act.

Mr PETERS: How much for the land rights?

Mr HATTON: For land rights? None. The Northern Territory has nothing. Graham is a lawyer and he will correct me if I am wrong. The Self-Government Act says that the Northern Territory cannot make laws for land rights. Only the federal government can do that, at the moment. That is in the Self-Government Act. The Northern Territory government cannot make laws and cannot take laws away on land rights.

Ms BAKER: That's what the Federal is telling NLC that's what they're saying now. They if we go to the Northern Territory constitution. They reckon they're only just going to destroy it. That's what they say.

That's what the Federal Government is telling NLC, that's what they're saying now. If we go to the Northern Territory the constitution. They reckon they're only just going to destroy it. That's what they say.

Mr HATTON: The NLC has been going around saying that, if we become a state and if, when we become a state, land rights come to the new state in the Northern Territory, the Northern Territory government is thinking about throwing land rights away.

Ms BAKER: That is what they told us.

Mr HATTON: That is what they are saying. That is crazy talk isn't it ...

Ms BAKER: It just wants to be the big boss.

Mr HATTON: ... when you think about it? Think about it. Do you reckon the Canberra government would let us do that, when this handover is made? You just say that you want to make sure we cannot do that. What I am saying to you now is that if the people lock it up in this constitution, the government cannot touch it.

Ms BAKER: (inaudible).

Mr HATTON: Why would they say we are going to do that? We have never said that we are going to take the land away.

Ms BAKER: Too many urbanies working in the office and no full-blood Aboriginal working there. They should be all kicked out.

Mr HATTON: The only book the government has ever written on land matters, and I will send a copy to this community - Wesley, we will get a copy of the paper on land options to the people here. That book says that we guarantee land rights. That is the only book we have ever written on it. People are saying that, if you do not trust us, you should put it in the constitution so we cannot touch it anyway. I cannot be straighter than that, can I?

Mr DJUPANDAWUY:

Is it true mori - sorry - that these business people will cut back, I mean ...

Mr LANHUPUY:

Say it again.

Mr DJUPANDAWUY:

The business people, mining and others.

Mr LANHUPUY:

I've said this before in the beginning. This is the first process talking and discussing and exchanging views on the constitution. The next step is the big convention which will involve Yolgnu people, mining people, women's right, environmentalists, the works. They will all look at these papers for the protection of everybody's rights, and the lawyers will look at it, too.

Ms BAKER: We want to see out (can't hear)

We want to see our (can't hear).

Mr LANHUPUY:

We'll all have a look at it, and when we come to an agreement and then we'll vote - everybody in the Northern Territory will vote - there will be a referendum. If we all don't agree, we'll come back and start talking about it again.

Ms BAKER: When you have that meeting with the NLC, I reckon it is best that each council member goes into that one because that is where they hide our story. They do not bring it out to the communities. We never ever hear from them.

Mr HATTON: That is why we say we want to try and get a meeting, not just with the executive of the council, but with the whole Northern Land Council so that all the representatives can be there to speak to everyone, one to one.

Ms BAKER: I mean that (inaudible) committees. There is the executive and there is a committee.

Mr HATTON: The whole lot.

Ms BAKER: There is an executive and there is a committee ...

Mr HATTON: Yes, the whole lot.

Ms BAKER: Yes, but we want the local council to attend that meeting also because we do not get the information back here. We have other Europeans and none of them give it to us.

Mr HATTON: Yes. I think the more we speak to you, the better it will be, don't you?

Ms BAKER: Yes.

Mr LANHUPUY:

This is what Steve said. If you Yolgnu people don't understand or recognise this paper, we will come back to you mob and explain to you again. Make sure because in the end we will hopefully get this paper, that everyone, Yolgnu and Balanda, will be happy for in the Northern Territory. This is not only for Balanda, nor is it for Yolgnu only, this is for everybody because that paper (constitution) will be like a bible for us, and it will protect all of our rights. This is the only opportunity, because if we decide to take it later it will be too late. Let's put all our laws in this paper, so when the Labor Party becomes the government, whenever in the future, then we won't be able to change it. The laws for our land rights will be strong and permanent.

Ms BAKER:

(can't hear) that later on.

Mr LANHUPUY:

Okay, once the constitution is made and the vote is on for the Northern Territory people, the constitutional process is finished and a vote is taken. The question that's just been asked is, will we be still controlled by Canberra? Graham?

GRAHAM NICHOLSON: Yes.

Mr LANHUPUY: The process is that the government in Canberra, whether it is Labor or Liberal would be stupid not to grant us constitutional rights, wouldn't it. Have they got the power to withhold that?

Mr HATTON: Yes.

Mr NICHOLSON: They do have the power but I would think that, if we have the referendum first (inaudible) the majority (inaudible).

Mr LANHUPUY: Throughout Australia.

Mr HATTON: What he is saying is that the Canberra government has the power. If the Territory people vote and 80% of the people make a really strong vote and say 'Yes'. Now, because we are only a territory, the Canberra government has the power to say that it will not let that law stand, but that would be silly because then the people have spoken.

We are still trying to think this through because this has never happened before in Australia. This is the first time, so we are still trying to think how it should go. We are trying to work it out, but we think that probably what will happen is that, when we get this constitution, we will go to Canberra and say: 'We want you to make this constitution to take the place of the Self-Government Act because the people have said this is the law they want'. First up then, they would make this the Northern Territory Constitution Act to replace the Self-Government Act. That would bring it into operation.

It is important that we get this constitution in existence and in operation before statehood because, if it is operating at the time when we become a state one day then, under section 106, the federal government cannot change it. Only the Territory people can change it. If it comes in after statehood, there would be a possibility that the federal government might be able to muck around with it and change it.

So, if we want to make sure to protect this so that it belongs to the Northern Territory people, we have to find a way to get

it in operation before we become a state, so that it belongs to the Northern Territory people only.

Ms BAKER: So the parliament will not be able to touch us then.

Mr HATTON: Yes, that is right.

Ms BAKER:

Because when they put that budget, when they put that money, then the Territory Government say, "We've got lots of people, a big population in the community", and the Federal people say, "No, but you only get this much". The Northern Territory government spend money on us, but they already make that decision in Canberra (about money), and they can't do anything because we don't have statehood. That's what he was telling us. (not clear)

Mr HATTON: I do not want you to think that all the problems in the world will be solved when we become a state because they will not be. We will still have arguments with Canberra about money. Everyone does. There will still be those sort of arguments and there will be problems with laws and arguments backwards and forwards, but at least you have put the foundations down, the roots down, and have set the direction. At least you give it that direction. It will not solve all the problems in the world, I promise you that, but it is a start and will make things a bit better. And it will see that your rights are protected.

Ms BAKER:

A questionnarritj, when you went to the last meeting, NLC meeting, did you bring up this matter about the constitution in the meeting?

Unknown (Narritji?)

No - nothing.

Ms BAKER:

Nothing. Tony do you have a question concerning Milingimbi?

Mr LANHUPUY:

(can't hear) I didn't see Babatji (Galarrwuy) in Gove.

Unknown

I don't have land rights.

Mr DJERRINGAL:

Don't ask any more questions. We've only just started talking and we've still a long way to go.

Unknown:

But we're still sorting out some ideas.

Unknown:

Anybody got a question?

Ms BAKER:

How are we going to ask all of these questions?

Unknown:

Let me ask Joe Peters.

Mr HATTON: Do any of the white community have any questions?

Ms BAKER: Yes, tell them not to push us around.

Yes. Tell them not to push us around.

Mr PETERS: If our laws were in a constitution, would we still have to see these boats coming in, like the fishing boat out there in the river anchored in a restricted area?

Ms BAKER:

I didn't hear that.

Mr LANHUPUY:

That problem is now in the hands of the NLC. The Northern Territory Government has forwarded the job on the sea closure legislation to them.

Unknown:

I see.

Mr LANHUPUY:

All this area should be closed. The NLC is responsible for all of this and they're not pleasing you.

Ms BAKER: Too busy making money.

Mr LANHUPUY:

Already the legislation that the Northern Territory Government said ...(can't hear) - sea closure 2 kilometre law. This area starting from Dhabila should be closed.

Mr PETERS: There's a boat anchored at Dhabila.

Mr LANHUPUY:

The police and the Land Council will look after that.

Ms BAKER:

And what about the teachers, where do they get money from?

Mr DJAWULMA:

We get our own money for ourselves. We dig for money ourselves. We get them from Canberra.

Ms BAKER:

No?

Mr HATTON: All right. I have been asked what sort of responsibilities the Northern Territory has now, under the Self-Government Act. It has most of the responsibilities that the states have. It has responsibility for health and education services, the schools, local government, the primary industries, looking after all the primary industries and the fishing. All that is the Northern Territory government's responsibility. The Northern Territory government has a responsibility for fishing up to 10 km out to sea. Once you go past 10 km, it is a federal government responsibility. That is where they draw the line. If you want to go barramundi fishing, that is Northern Territory waters. If you go out chasing mackerel or tuna offshore, that is in federal waters. That is the way they draw the differences.

Almost all the mining in the Northern Territory is the responsibility of the Northern Territory government. All of it except uranium, because uranium is federal. They kept that. And they kept all the mining in Kakadu, no matter what sort. Coronation Hill is a federal responsibility because it is inside Kakadu. That is one area where it is different to the states because in the states all the mining is for the state. That is where the difference is.

We look after all the parks, all the national parks in the Northern Territory. Katherine Gorge, Litchfield and Gregory, the West MacDonnells and so on, all the big parks except for Uluru and Kakadu. The federal government kept those 2. We have been arguing about them too because we say that, everywhere else in Australia, all the parks are looked after by the state governments. That is why there are arguments about Kakadu and Uluru and why we are saying they should be Northern Territory parks. That has nothing to do with land rights and all those sort of arguments. It is to do with the fact that it is a state-type function. That is what the arguments have been about.

So there are those sort of little differences. As I said, health, community developments, all the transport and works functions - the airports, roads, bridges, barge landings, all those sort of things - are done by the Northern Territory government. Housing is provided by the Northern Territory, and all the lands administration, except Aboriginal land.

All the land that is not under the Land Rights Act is administered by the Northern Territory government, but the Aboriginal land rights land is administered by the federal government. That is why there have been arguments about where that responsibility should sit too. It is all mixed up.

We have most of the state-type responsibilities under the Self-Government Act except for those things like the Kakadu and Uluru National Parks, uranium, and the Land Rights Act. And there are some other strange things. We cannot get royalties for the offshore oil and gas. That goes to the federal government. There is an argument between the trade unions and the bosses on industrial conciliation and arbitration, and that is still with the federal government. We cannot get it back. They have cut us out of that one too. That is where the differences are between the Territory and the states.

Mr LANHUPUY:

That's basically the main reason why we've come here.

There would have been six people from the committee here. Three on his side (CLP), and two more on my side (ALP), to bring you this paper. The main reason we're here is to say, "Here look at this, think about it very carefully and then feed us back with your views". Don't rush. Go through it carefully, ask everyone to come to the community meeting and ask us to come back any time.

Mr HATTON: One big difference between the Northern Territory and the states is this. We do education, health and things like they do in the states, but the big difference is that, in the states, the federal government cannot take the responsibility away from them because they are protected by the Australian Constitution. That stops the federal government from being able to take away those things the states are doing.

Also, if you live in one of the states, the federal government cannot just take your property from you, your land. If it does, it has to pay you, because the Australian Constitution says that the federal government cannot take that land except for Commonwealth purposes and then the land must be taken on what are called 'just terms'. That means the federal government must pay for any land it takes from you. But, in the Northern Territory, we do not have that protection. The federal government can take your land from you. It can take my land from me. It can take my property and it does not have to pay me for it, because I do not have protection under that constitution and that is because we are not a state. The federal government can take away jobs that the Northern Territory does, some of the functions like providing for education and health services or whatever. The federal government can take over those responsibilities because the Territory does not have a constitution to protect it, as the states have.

That is what we mean when we say we are not a constitutional state. We are only able to do the things we do because the federal government allows us to do them. If it changes its mind, it can take those responsibilities away from us. There is an old saying: what the government gives to you, the government can take away from you. What the people give to themselves, only the people can take away. That is the difference with a constitution.

Mr DJERRINGAL:

Yes, that's just fine. Are we finished talking now?

Unknown:

Yes.

Ms BAKER:

It's all right, but what if they changing their mind and try to translate our story, what we've said differently.

Mr DJERRINGAL:

Yes, this is just fine - this must be the last meeting. Don't come back too much.

Ms BAKER: We'll keep writing to the Northern Land Council.

Mr DJERRINGAL:

It's okay - it was a very good discussion.

Mr LANHUPUY:

We're finding it hard to come back to meet Yolgnu and Balanda on how we think. We'll only get that view once this convention is held. Then we'll look at all the papers that we've collected and hopefully form a opinion on what people are thinking about constitutional development in the end. But it's too early yet for us to make up our own mind.

Unknown: Yes.

Mr LANHUPUY:

At the moment, we're all going over to places collecting stories, information and views from both Balanda and Yolgnu people so that this paper of ours will turn out to be a good one in the end.

Mr BAKER:

Would it be alright to make a combined trip mori?

Mr LANHUPUY:

Where to?

Ms BAKER:

A combined trip for the Northern Land Council and the Committee.

Mr LANHUPUY:

Only if you people in the community allow us to get together and come because you will have to listen to our arguments.

Ms BAKER:

What happens now is that different parties come at different times. Each person that comes to advise us has a different opinion. So if we just keep on looking at these pamphlets here ... (can't hear). We have to invite both of you to come next time. Then there will be a proper understanding. That's what makes it confusing because we don't know what to think.

Mr HATTON: It is the same all over the Northern Territory.

Ms BAKER:

You see that's the - our Yolgnu way - we do it like this. You making trouble - you know - you're making trouble we sort it out right here. But these western ways are different. One group come one day and another group come the next day and it's no good like this.

Mr HATTON: In many ways, writing a constitution is a bit like the yolgnu way of doing things, isn't it?

Ms BAKER: Yes.

Mr HATTON: Getting them all together. I have to say that there will be a lot of arguing to start with, because when people have different views they argue with each other but, if we talk together and try to sort it out, we will start to find the way. It will take a lot of patience and, I guess, it will take a lot of endurance. We have just got to keep going at it, and use perseverance.

Ms BAKER:

That's what happened mori when the law for the Northern Territory was changed.

Frank FARLEY: When the Northern Land Council comes out to talk to you about this constitution and they tell you these stories, you should be telling them your stories and telling the land council that they are working for you and they should be meeting and talking with these people. These people are having problems trying to talk to the land councils, and you should tell the land councils that you want them to talk to these people because this constitution is very important. Tell them that everybody needs to get together. They should not fight about the constitution. People have to get together so that everybody gets their story across, and the only way they can do that is to go and talk to these people.

So when the land council comes out and tells you these stories, ask them if they have talked to these people. If they say that they have not, then how can you believe these stories because they have not talked and found out what it is all about themselves?

Mr LANHUPUY:

It's already been changed - what is it Frank?

Ms BAKER:

The governments didn't change that.

Mr FARLEY: The lands council works for you people.

Mr DJERRINGAL: I think the land council should listen to Yolgnu people - what they think.

Mr FARLEY: You people have to tell the Lands Council what they want the Lands Council to go and talk to these people.

Ms BAKER: After sitting in that office at Northern Land Council they have been asking advice, advice - James Galarrwuy no voices from the community. That's where it's all wrong.

Mr LANHUPUY:

Myself and Babatji had an argument in Katherine. He said to me, "Why are you with this mob? Both of you parties, the Country Liberal Party and the ALP? Are you selling our land rights? You don't do your jobs through us, the Land Council mob". I replied, "The Northern Territory Parliament has the right to do that. We can go and ask Yolgnu people for their opinions. And this constitution gives people rights to vote for their religion and freedom, and for their own freedom of press". And I told him, "And you stop cutting Yolgnu people off from us. If they want to talk to us, let them talk to us - loosen their strings so they can talk on their own." It's only been ten years since we got our voting rights. That's one of our rights and we've got the right to vote for this constitution. If we try to stop each other from asking the governments for our rights then our roots (djalkiri) will be looked after by another interested organisation.

That's why we will have to go listen to your stories. You get the opportunity to give us your opinions. We want to talk to people publicly, to anybody Yolgnu and Balanda in any community, about their laws. That's why we're all

going around meeting people. The important thing is that we've got the right to vote now the power is available. Let's use that power to vote. The power of voting is important for us Yolgnu people. It was only ten years ago that we got voting rights. Once we use this power the Balanda people will realise that Yolgnu people are beginning to understand Balanda politics, and how we will put our laws into it. You can use us or the Land Council for your benefit. We are asking you to look at this paper, and you can ask questions. Frank (Farley) and Rick (Gray) will be available. What Gutjan has said, if you want us and the Land Councils to return it's alright with us.

Ms BAKER:

Yes, we want you to do that, because they sometimes brain wash people. What about the (can't hear), what do you call them, ABSEC, ATSIC something. Is that been happening or what?

Mr HATTON: That ATSIC thing?

Ms BAKER: Yes.

Mr HATTON: That is that Gerry Hand thing.

Ms BAKER: Yes, the Gerry Hand thing. Has it got another hand?

Mr HATTON: Do you want my opinion on ATSIC?

Ms BAKER: Yes.

Mr HATTON: I think it is terrible.

Ms BAKER: Yes, I think it is too because one person in the Northern Territory is not going to represent full bloods.

Mr LANHUPUY: They gave us 1 extra; 3 now for the Northern Territory.

Mr HATTON: There are too many things wrong with it, I reckon. I see a lot of fights. I look at the boundaries that they drew. I look down at the Centre and the boundaries go through the middle of the Aranda lands. Half the Aranda people are there, and half the Aranda people there. And they have cut up Anmatjirra. It is all mucked up. They can't get that right. The boundaries are not even following the roads. They have got these little (inaudible) here putting people together. I reckon that is sort of fiddling around with votes. So this mob and that mob, they are on our side and that mob is not, so we put these 2 in with them so that they cannot push them under in the voting. It does not seem right.

How are they going to do it? They say that this is going to be Aboriginal self-determination and Aboriginal people making the say, and when you look at it and you look at (inaudible) and he says well, the ATSIC things when they are talking about these things which are what DAA do now, on those ones they have to do what the minister says anyway ...

Ms BAKER: Yes.

Mr HATTON: ... like the DAA, and those things that were the ADC-type things they do them like they were the ADC before. So what have you got?

Ms BAKER: Nothing.

Mr HATTON: It is not going to change how they will work from day to day. And who are all the people who will do all the work? Where are they to come from? Are they going to turn around and say: 'Oh, we are going to make the land council the ATSIC?'. Is that what they are going to say? I do not know. It just does not seem to come together.

I do not think it will make things run better for Aboriginal people. It is going to cause lots of arguments between the federal government and the state governments because there will be a battle about it, because the state governments are still doing things here and the federal government is still doing things there, and this ATSIC thing is coming up the middle. What happens if the ATSIC does something wrong? The minister still has to be responsible (inaudible). If the minister is to be responsible, then the minister has to have a say.

If they want to talk to Aboriginal people they should form a consultative thing with the minister and not mess around.

They should set it up properly so they have people that really can speak on behalf of the communities and not just create a balanda voting system for it. They should set it up so that the yolgnu leaders speak.

Ms BAKER:

Yes, we put that proposal at the Arnhem Club and then, when he went to the DAA office he saw (inaudible) and (inaudible) scrubbed it and put it in the rubbish dump, and he said: 'I will try it my way first'. They told us. That is why we do not want DAA there, we want it in the Territory.

Mr HATTON: I think we have covered all the things we need to talk about. Okay, thank you very much for talking with us. Thank you. I close the meeting.