

PUBLIC MEETING

GALIWINKU — Friday, 5 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 Keith DJINIYINI

Mr George DAYNGUMBU

Mr G. GURWANAWUY

Mr Jeoffrey MALAWA

Mr DANGATANGA

Mr MAWUNYDJIL

Mr DAJANNANGA

Mr Richard GANDUWUY

Mr DATJARRANGA

Mr DJALANGGI

Mr DJIRRIMBILPILWUY

Mr DJILIPA

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: 8 MARCH 1991

Mr Keith DJINIYINI: (addressing the community)

This is the last meeting before the Sessional Committee return to Darwin. We have to throw in our ideas and opinions for the constitution which is for all Northern Territory people. Now we have to talk about this constitution and make decisions, then we'll have a big community meeting about it later. If everyone ... (can't hear), then later the Sessional Committee will look into our Yolgnu laws. This meeting is giving us the opportunity to make decisions, so let's listen, ask questions and get some answers back.

Mr Keith DJINIYINI: (addressing the Committee)

Our apologies but we tried to ring you up yesterday but we were busy at a funeral and all of that and we couldn't get hold of you. We rang Milingimbi and Ramingining but Wesley came across here. On behalf of the Council and myself we welcome you to this meeting and we will start the meeting now.

Mr HATTON: Thank you very much for giving us the opportunity to speak with you, particularly as we understand that you are having a very difficult time at the moment. Obviously, you have gone out of your way at a very important time to meet with us. We are very grateful for that honour that you have done our committee and, on behalf of the committee, I would like to thank you for that.

We have been going around the Northern Territory since March on this job for the Northern Territory parliament. I am the chairman of a committee of the Legislative Assembly in the Northern Territory. It is called the Select Committee on Constitutional Development. There are 6 members on the committee and you will see their photos at the back of the booklet that we have sent out. Of course, Wesley is a member of this committee. This is not like other things that are occurring in the parliament. This is one time when both the Labor Party and the Country Liberal Party are actually working together and not fighting. We are both saying the same thing. We are both working on the same job because it is important that we are thinking like Territorians rather than playing party politics. I hope you can understand that. It is a very important job that we are doing. It is so important that we believe that we have to work together if we are to do this work properly.

What we are doing is working with the Northern Territory people to write a constitution. I guess you have all heard of constitutions. You have a constitution for your council or for a housing association. When you write a constitution for those sorts of things, you set out all the rules on how you are going to elect the council, what the council is allowed to do and what it is not allowed to do. Where you have a government, the people write the same sort of constitution. The people themselves make a special law which says how they want their place, in this case the Northern Territory, to work. They have to write those sorts of rules. They put those rules over the top of the government and they determine what the government is allowed to do.

It says how you go about electing the parliament, who is allowed to vote, who is allowed to stand as a member of parliament, when the parliament has to go back to the people to be re-elected and how you choose the government from the parliament. It also says what the courts, the judges and the magistrates can do. The people write special laws which say that there are some things that are so important to them that they do not want any government to be able to muck about with them. It might be that the government cannot take away your right to vote. That is so important that no government can be allowed to muck around with it. Thus, you put in this constitution that you have a right to vote.

It might be that you write in there that you have freedom to practise your religion or for something for the protection of your culture so that no one can take it away from you. It might be protection for sacred sites or Aboriginal language. It might be a guarantee of your Aboriginal land so that no one can take that from you. There are all sorts of different things that people might think about and say: 'This is just so important that we are not going to let any government, no matter who it is, muck around with this. It has to leave this alone'. That is where the people make these rules. When all the people in the Territory make that law, it will sit there like a boss over the top of the government and tell the government which way it has to go and where it is not allowed to go. It is how the people take the power over the top of the government and say: 'You are our government. You have got to go that way'.

All governments in Australia, including the federal government in Canberra, have a constitution over the top of them. The governments in Queensland, Western Australia, South Australia, New South Wales, Victoria and Tasmania all have a constitution over the top of them. In the United States, there is a constitution over the top of the government there. That is how you stop the government from being able to do something. Some places do not have a constitution - for example, England does not have one - and then the government is all powerful. It can do whatever it likes because there are no rules to stop it. If there is no written constitution, the government can do anything.

The government of the Northern Territory does not have a constitution over the top of it. The federal government does not have a constitution over the top of it for the Northern Territory. It can do whatever it likes in the Northern Territory because there is nothing to stop it. It can make any law it likes and it can take away any law it likes. If it wants to, it can take away your right to vote. It can take away your right to have any sort of government because the Northern Territory government - Wesley and I in the parliament there - is there only because of a federal act of parliament. If the federal government said that it did not want that any longer, it could repeal it and there would be no parliament and government in the Northern Territory. It can simply take it away. It cannot do that in the states because the constitution stops it. At the moment, your land rights are only under a federal act of parliament. I do not believe that it would ever do it, but it has the power, if it wanted to, to take away the Land Rights Act and things would be back to where they were 20 years ago. There is nothing to stop it because the people have not made their law to sit over the top of the government.

That is what we are working on. We must start to work on the writing of a law for all the people in the Northern Territory - yolgnu, balanda, Chinese, the lot. It will say: 'This is the way that we want this Northern Territory to go and this is how we want to get there'. The people will say to the government: 'We want you to go down that road'. It will have to go down that road because it is the people's law. That is the white man's way of doing things and this is a bit like yolgnu law. Your law has always been there and keeps on going the same way all the time. It does not change. However, balanda law sometimes goes this way and then it will change and go back over that way. It goes backwards and forwards all the time. It is not like yolgnu law, is it? In this way, the white man also makes one law which keeps going the same way all the time. He may be able to fiddle it around or switch it around a bit, but it will still go down that one road. In this way, a constitution is very much like Aboriginal law. It sets the road, the way people have to live together and how the government is to work.

That is the job that we have to do. Once we make this law, it is the people's law and the government cannot change it. The government has to obey that law. Only the people can change that law. If the government wants to change it, it has to ask the people. Do you remember that, last year, there was a referendum on the Australian Constitution? There were 4 questions on which you had to vote yes or no. The federal government wanted to make some changes to the constitution but it had to ask the people. The people said no and the government could not touch it.

When we do this job, it will be the same way for the Northern Territory. The people will own that law, not the government. That is the way the people make the direction. That has never happened in the Northern Territory before. We have always had someone else tell us what we would have. You have had that all the time, haven't you? The people in Canberra told us what we could have. They said: 'We are going to give you self-government. Here is an act. This is how you are going to do it'. They never asked the people. If they want to change it, they can do so without asking us.

In this way, the people can say where they want to go. That is why it is such an important job. Because of the sort of law it is, it will be there for a long time. It will determine how the Northern Territory will be, not only for you and me, but also for our grandchildren and their grandchildren. We have got to ask how we want this place to be in 50 years time and 100 years time. Do we want all the arguing and fighting to continue or do we want to make some rules and work out how we are going to live together and make a place that we will be proud to leave for our children? We want a Territory of which we can proud to say:

'We did that for you. You have a place where you can grow and develop and live the life that you want to live'. That is a responsibility we have to the future. That is why we cannot walk away from it, why it is going to be hard and why it will not be quick. However, it is a job that we have to do, not only for ourselves but for future generations. Our job is to fix this place up the way it should be for future generations.

You cannot trust the politicians to write this law. The people have to write this law. That is why we are coming around now saying that we all have to start doing this job now. At the moment, We are not asking you to say what you think should go in there. We are just asking you to start reading this material, thinking about it and coming up with ideas. You might think of ideas apart from the ones in these books. Talk to Wesley and myself. If you are not sure about something, we will get someone to come and talk to you. After you have got your ideas together, we will come back later this year or early next year and you can tell us, individually and as a community, what you think should go in this constitution.

We are doing that all over the Northern Territory. We are visiting 60 communities. We are going everywhere from Kintore and Finke to here and over to the VRD, the Barkly, Borroloola, Alice Springs, Darwin, Katherine, Tennant Creek - all over. We are saying the same thing at all places. We are asking the people to start thinking about this. We are asking them to have their say in this and to ensure that, when the people of the Territory write this law, it will look after the interests of all the people and determine how we will go forward together as Northern Territory people - black and white. It must

protect the things that are important to people. However, it is important for you to think about the problems that the other guy has too.

We are just going to get some idea of what we think the people are saying and then we have to do another job and we need your help on that too. We have to bring together a big committee of representatives of all the people of the Territory. These are people whom you believe can speak on behalf of the various communities, not just here but in the Centre, Darwin and all over. They will be all types of different people - miners, pastoralists, Aborigines, women, shop people from Darwin or whatever. We will get all the different sorts of people and bring them together to look at our work and say whether they think we did it properly or not and to change it if they think that needs to be done. It will be like a big drafting committee which will draft this constitution. We must have the right people for that job, people who can speak for you and who will ensure that your thinking is presented to the meetings of that big committee.

These people will argue out all the bits and pieces. There will be lots of arguments. You may think that something should go in but the people from Alice Springs may disagree. People will have to argue it out and explain to others why some things are important to them and also understand the problems of others. Between you, you will start to work out how you can fix up each other's problems and determine a way to go. It will take a long time but, when they have finished that job, the people will have to vote yes or no in a referendum. If the people are still not really happy with it, they will vote no and the work will have to start again. We will have to keep on working until we get something for which the people can vote yes.

It will not be a quick job. It will take 3 years or 5 years or perhaps even longer. However, we must do it properly and we have to start some time. It will be a long road to get this job done. All we are doing now is taking the first step of telling people that it needs to be done and asking them to start thinking about it and become really involved in it. People must have their say and ensure that their interests are properly looked after in this constitution. The people must do this for themselves and for the future generations of Territorians, their children, grandchildren and great grandchildren and make a place for them where they can have a better life. That is the job that we have come to talk about.

Would you like to say something, Wesley?

Mr LANHUPUY: (Wangurri and Djambarrpuyngu languages)

I have to thank you all for coming here to this meeting when it's during a funeral ceremony. Thank you for giving us the time to talk to you during this gathering.

Steve has already told you that we have two main political parties in the Northern Territory. They are the CLP and the ALP, and we both parties are working together on this committee to develop a paper called a constitution. We are doing this because we believe that everybody wants the Northern Territory to develop a paper like the constitution because we want to live the lives we choose here in the Northern Territory and have a constitution for the foundations of our law.

All of the other states have a constitution. We are the only ones that Canberra is still holding onto tightly. Western Australia, South Australia, Tasmania, Victoria, New South Wales and Queensland already have their own constitution. We are the last people, the Northern Territorians, to let us try it like the other states.

We are grown-up now and we know how to handle our jobs. We are running our own public services, law system, essential services, transport and works and other responsibilities. We are handling all of them.

What we are saying to Canberra is give us the power so we can stand alone. Canberra has control over many areas such as uranium mining and National Parks like Kakadu and Uluru. The Northern Territory is dissatisfied. We want control of these areas for ourselves. We want the laws to be ours. We want to be released from Canberra's power and we want our own power to control our own laws. This is what the Northern Territory is wanting to do, and we want our laws to go into a constitution.

These laws will be then be above politician's control because they will be laws decided by Yolgnu people, Yolgnu laws. We politicians won't be able fool around with it, not even the legislation, nothing, because the power will be for you Yolgnu people. It will become a Yolgnu power in the constitution.

If you want your land rights put into this constitution to become strong then we can do it by putting it into the

constitution. At the moment our land rights are clinging onto an act of parliament.

If the Liberal Government or the Labor Party wanted to come in and change the laws, they could easily change them. If we put our land rights into a constitution then land rights would be stronger. Not even we politicians would be able to play around with it.

The only way to change those laws when they are in a constitution is by a vote of the people. It is for this reason that this committee is here today. You can see our pictures in this booklet here.

Let's start talking. Let's look at this law and how this law will treat us Northern Territory people. We need to start asking questions like how many parliamentarians (candidates) will we elect for our parliament? Will they recognise our land rights? Will they make special concessions for land rights? Will this law be good for our land rights because we are forty thousand Yolgnu people here.

Let's make laws for the Northern Territory, laws for the education system and bilingualism.

Let's all bring it forward, put our thoughts and laws into this constitution so that later when you come to arguing, you know what you're arguing for. Your power will be strong with a constitution and if anything goes wrong later you will have your rights and laws written down for you to argue for.

The Federal Government already has a Constitution, for all Australians. The new constitution law will be like this. For example, mari, Gaymuniny, has been staying in Galiwinku for a long time and he's getting tired, and he says to himself, "I want to go and stay at my outstation, so I can work for myself and start to establish my home. I'll plan to do the best I can for myself, and then I can get money funded directly to me to manage everything on my own."

That's how it will be to change from a Federal Constitution to a State Constitution. Some of us are going through this process already. Last time we Yolgnu said to Canberra (can't hear), "It's been long enough that you've been holding onto our arms, leading us in your ways and offering money to us. It's about time we changed. We want to be independent people." Let's say this to them.

Before we ask to become a state, that'll be in the

future, let's go through this process of constitutional development first. That's why we are visiting you. Steve has already told you this.

We are visiting sixty communities starting at Finke, Kintore, Yarralin and other communities. We are visiting many communities because we believe without full consultation with Yolgnu people and without sharing our views, our laws will not be good.

If we want this constitution to work everyone will have to bring their arguments out into the open - all of our dissatisfactions, bring everything into the open. Throw it open for discussion and for the committee to look at.

This committee is very important, that's why I decided to go on it. I saw the need to look at what Yolgnu people want from this constitution. Yolgnu people need a person like me to speak on their behalf. Canberra might sometimes say, "Do we trust the Northern Territory to give them this power?" Will Canberra give in in the end and give us this power? Are they ever going to loosen the strings they have tied to us or will they continue to hold onto us?"

By asking for this paper we are asking Canberra to give us the power because we already know how to run our own service systems (can't hear). We are running the police and the Education Department. We are doing all of this. We pay the taxes. This power we are arguing for belongs to us. Canberra are looking at us and saying, "You're still not good enough - you're still not ready but keep trying".

Both the Country Liberal and us mob, the ALP, are working together on this constitutional development - all working as one team. When we are not together on this committee we're arguing about many other policies. We are always arguing about our differences. The CLP are always disagreeing with us and I sometimes do the same to them.

At the moment we're unified working on this committee. We're asking the people or the Northern Territory. We're saying, "Here look at this and learn". If you've got a problem then give us your views share it with us so we'll all look at it. This is what all of this means. In what way should we have this constitution for the Northern Territory and how will it be when our children are grown-ups? Will we still be fighting over our land rights or shall we be given recognition for our land? Do we have to continue arguing on land management, land matters and other issues?

These are the main reasons we're visiting you and getting all of your views, so that next time when you think of something to say you know we'll be available to come back for a big community meeting or smaller group meetings. Myself and our Executive Officer, Rick, over there, can come back.

This is our lawyer, Graham Nicholson. He wrote the paper that you're looking at and the story in this paper has been broken into small English words. If you want to look into this paper which contains a more difficult English, then you have to get one of these books. Basically from this little paper comes the bigger one, and here they are. This book here is for the lawyers. They will debate about this one.

This is the first stage of the process - going around and informing people. The second stage is the big meeting (the Constitutional Convention) which will be for Yolgnu, Balanda, halfcastes, Chinese and other people. We will all look at this paper (draft constitution) and then you Yolgnu people and others will have to decide how you want to record your decisions and truths.

Let's all put our ideas and laws into this constitution so that later, if anything goes wrong, you will have your laws and rights written down to argue for.

Mr DAYNGUMBU: (Wangurri language)

Can I ask one question? Is there a constitution looking after us in Canberra at the moment?

Mr LANHUPUY: (Djambarrpuyngu and Wangurri)

Canberra belongs to us the Commonwealth ... Self-Government Act. At the moment we (the NT) have a Self Government Act. Every other state has got a constitution. They all have become states and they all have got State Constitutions.

We are the only ones that don't have a constitution, us Northern Territorians. Back in 1978 they (Canberra) gave us the Self Government Act.

With that we are currently exercising power and authority by providing services throughout the Northern Territory.

Mr HATTON: States are guaranteed by the Australian Constitution. In the NT we don't have that guarantee.

Mr LANHUPUY:

Sometimes they (Canberra) create problems for us, it's bad for Us, and doesn't do us any good. They can take our power away from us any time they want to because we don't have a constitution to protect our land rights.

Unknown: Special funding (inaudible).

Mr LANHUPUY:

We can't change, because we're still receiving Federal funding. The same sharing of funding between Federal and other states is going on in all of the other states. We don't get a large amount and we don't get a small amount.

(Can't hear discussion)

Mr HATTON: Each state gets about 60% of its money from Canberra.

Mr LANHUPUY:

The Northern Territory should receive the same level of funding as the other states.

Mr DAYNGUMBU:

Are you talking about power?

Mr LANHUPUY:

We are asking for our responsibilities. We are asking the Federal Government saying, "We want our power. We are already providing our own services, the law, industry. We want to extend the public services through acts of parliament." We should think seriously first before we ask for our responsibilities and tell them to stop holding onto us. Let's say that, but think first.

(Can't hear question)

Mr LANHUPUY:

The reason? The reason were saying this is look at this for an example. The Galiwinku Council stopped operating the Resource Centre and now the Resource Centre is running on its own, it's not under the Council anymore. This is what we are asking Canberra for. This is what it means for us to go forward on our own. Now, whenever the Resource Centre wants to borrow money from DAA, they don't have to go through the Council.

Unknown: That's all in one, that's all in one.

Mr LANHUPUY:

In what way?

(Can't hear comment)

Mr LANHUPUY:

... part of it. At the moment we're only operating part of it. It's through acts of parliament that we are responsible in the same way the Council have by-laws. Council make rules like one or two dogs is enough for each family. I'll give you one example Brian Ede gave when we were in the Centre, and it goes like this. If you don't like a fierce bully dog, tie him around the neck and tie him to a tree, in that way he can't get loose, he will have to go around and around that tree for the rest of his life. This is what we are like, going around in one spot. We've got no freedom to run free and do things by ourselves. You see this. (can't hear) It's like this.

Mr GURWANAWUY:

For example, especially if someone put a curse on the store we don't do anything because our law prevents us from doing anything. This law is like that for us. If someone put a curse on the store we should lock him up. We never put that into action. Is there a law in the constitution to cover that?

Mr LANHUPUY:

The constitution will protect your rights, your religion, exercise your freedom and so on.

Unknown:

... strings, but it's still controlling us, isn't it, muka?

Mr LANHUPUY:

At the moment what we are holding onto is ... (can't hear) ... we're tied by strings. We don't have that ... (can't hear). The Northern Territory doesn't have a constitution to protect our rights.

Mr DAYNGUMBU: (Wangurri language)

I know that myself.

(Can't hear comments)

Mr LANHUPUY: (Wangurri language)

We only take money from them. That's how they look at us. It's like we're always depending on the government for money.

Everybody:

Outstation (can't hear) NT outstations

(Can't hear discussion)

Mr GARDHUWUY: Firstly, my question is whether there is still a chance to make a proposal for the draft of this document or will we only make changes in this?

Mr HATTON: We have not even written anything yet. These books, in particular this one, give lots of different ideas. I will give you an example. It asks whether you want 1 or 2 Houses for your parliament. Do you want 1 House as we have now or a set-up like Canberra where there is the Senate and the House of Representatives, an Upper and Lower House? When you have an Upper and Lower House, that is called a bicameral system. When there is only 1 House, like the present Legislative Assembly, that is called a unicameral system. That is 1 question: do you want 2 Houses or 1 House? This book gives the good and bad points of both systems. What you have to do is think about it and tell us what you think.

We are only putting different ideas down here. We have not started to write it up. All right? This is the very first step. We are asking you to start thinking about it. I am not even going to tell you all that I think. I want you to tell me what you think. After we have heard from all over the Territory, our job will be to try to put that together. However, that will only be an idea. We are not going to write this. You have got to write this one, not us. We are just here to get you thinking and talking with other people. That is why we have to form that big committee, which is called a constitutional convention, because they are the people who will do the writing. That may take 3 or 5 years. They will have to meet time and time again. There are some people in Darwin and Alice Springs who do not like land rights. You will say that you want land rights in this law so that the government cannot touch them and those people will say that they are not sure about that. You will have to talk and explain it so that they understand why land rights are so important. The way we go about making people talk to each other about their problems so that they understand one another is as important as the end result. Isn't that so?

Mr LANHUPUY:

One example is if want we can put our land rights into this constitution. We will argue and others will say, "But our land rights have already been recognised through an act of parliament", but we have to put it in the constitution so they will become permanent, so we the politicians can't change it.

Mr K DJINIYINI:

Two parties.

Mr LANHUPUY:

Two parties, and they have election after election after election and whoever wins then the changes will be put down, and the paper will be returned to you mob to Yolgnu people. The Northern Territory population will be the only ones who can change it.

Mr HATTON: We have just got a lot of ideas now. We spent 3 years just getting a few ideas together and now we are saying: 'Have a look at some of these ideas. There might be things that we have not thought of and that you will think of'. When we come back later this year or next year, you can tell us what you think. If you cannot understand this material, there is a telephone number on which you can ring us free of charge. We will get Wesley or myself or Mr Nicholson or someone to come out and talk to you about whatever you do not understand. You can ask questions and find out what

these different things mean. Then, you can go away and have a think about it. That is really important. We want to give you time to think and make up your mind so that you can ensure that you have your say and look after the things that are important to you.

Mr MALAWA:

When's the big meeting? When is our big meeting?

Mr GURWANAWUY:

When is this very big meeting?

(Discussion inaudible)

Mr DAYNGUMBU:

This is the first step, we've been told already. They just told us the story and now we have to think about it and discuss it amongst ourselves and then the committee will come back to us and a lot of questions will arise during their next visit, if they come back.

Mr GURWANAWUY:

I just told you that.

Mr LANHUPUY:

And if you want us to come back I will have to talk again to make sure you know enough about it.

Mr DANATANA:

That's good enough, but there's lots ...

Mr LANHUPUY:

We'll leave it up to you mob.

Mr DANGATANGA:

(Can't hear) we have some important ...

Mr LANHUPUY:

Yes, if the community ...

Mr DANGATANGA: Community and the people.

Unknown:

(Can't hear) Northern Territory - black and white

(Discussion inaudible)

Mr MAWUNYDJIL:

It's good for Lanhupuy to be telling us this story, the full story, because sometimes we're not sure what is going on and we argue a lot with the Darwin mob and they argue with the Canberra mob.

Unknown:

Yes.

(Discussion inaudible)

Mr MAWUNYDJIL: Ga (and) then we have to argue with them again.

.....

It's better if ...

Mr MALAWA:

... it's like this

Mr MAWUNYDJIL: We talk together, sharing the ideas, supporting and helping.

Mr DJINIYINI:

Often we ask ADC or ABTA for loans to give us good homes but it s not enough, we don't get any support from this council or from funding bodies. They just can't make their decisions (about funding)

Mr MALAWA: My question was the power, you know, we get a lot of Federal funding.

Mr HATTON: There are 2 questions there. I think there are 2 important differences. You are thinking about when we become a state, right? One day - it might be in 5 or 10 or 20 years time - we will become a state. But, how we do that is another question. Before you can even think about becoming a state, you must know what you want. Therefore, you have to do this job and, when you have finished this job, you can then ask whether you wish to become a state and, if so, when. Then, you can ask questions about the transfer of powers from Canberra to the Northern Territory. You do not even know what you want until you have written this.

You know that people come to talk to you about community government. You do not have community government here, do you? No. But, if you were going to introduce it, you would have to sit down for a long time and work out how you want it to work. You would have to write a constitution probably. After you have written a constitution, you would have a look at it and say: 'Yes. That is what I want'. Then, you would think about becoming a community government. The same thing applies with the Northern Territory. Until you write that constitution which indicates where you want to go and how you want it to work, you cannot even start to talk about being a state.

Mr LANHUPUY:

That's why, mari, if you don't trust us, the politicians, then put your laws in this constitution, and we won't fool around with them.

Mr HATTON: If you do not trust the government, you do not trust the politicians, you put it there so they cannot touch it. This is where you make the law over the top of the government and you say, 'Government. This is too important. You leave that alone'.

Mr LANHUPUY:

Unless you play around with it and make the changes yourself ...

.....

Understand this?

Mr HATTON: Which is why you have got to sit down and you have to talk and when there is going to be fights like that at the start, you talk and talk and talk and talk until you work out a way to go.

Mr GANDHUWUY:

Wesley, tell us about the constitution. Is this constitution law strong? Is it true?

Unknown: Because some of us are a little bit frightened by ...

Mr LANHUPUY:

I will have to ask this lawyer, Graham, the difference between a constitution and an act, please.

Mr NICHOLSON: There is a constitution for the whole of Australia, right? That is the law that binds everybody, including the parliament. The only way that you can change that law is by having a referendum in which everybody votes. It is the same for the Northern Territory. If you have a constitution for the Northern Territory, it is the law that binds everybody in the Northern Territory including the Northern Territory government and parliament. As this green book says, the only way to change that constitution is by a vote of everybody in the Northern Territory. An ordinary act of parliament, whether it is a Commonwealth or a Northern Territory act, can be changed by the parliament itself.

Mr HATTON: You do not have to ask the people.

Mr NICHOLSON: It does not have to go to a vote of all the people.

Mr DAJANNANGA: But you still change the law?

Mr LANHUPUY:

With the legislation that they've got at the moment, we've got the right to change any laws anytime, the politicians.

Mr DATJARRANGA: What do the people, the community say?

Mr LANHUPUY:

If the Labor Party look at some laws and say "This is good, we have to change this law". According to our current law we can change any laws anytime.

Mr DATJARRANGA:

Today, now.

Mr LANHUPUY:

Yes, today's law.

Mr DATJARRANGA:

Is that how it is today? This man (Steve) told us the Balanda's law is always changing.

Mr HATTON: But, with this constitutional law, the government cannot change it. Only the people can change it.

Mr NICHOLSON: And the courts will enforce the constitution to make sure the government does obey the constitution.

Mr HATTON: If the government goes outside that, you can take it to court.

Mr LANHUPUY:

With the people's law, people's power in the constitution, the parliamentary people won't do anything with it, not any of that mob, not even in the parliament.

Mr DATJARRANGA: Cannot even change the law.

Mr LANHUPUY:

But at the moment with acts of parliament we can change it.

Mr HATTON: That is where the people put something over the top of the politicians and say: 'We do what we tell you'.

Mr DATJARRANGA:

(not clear) - all community like this. This is just an idea, for example.

Mr LANHUPUY:

If you want, over at Milingimbi they talked about this, they have a land council over there, and they have different views on this. We've got different views. Whoever wants us to come back, we'll all come back together and we'll deal this matter when you'll be listening. It's okay, we're available to do that.

(Can't hear)

Mr LANHUPUY:

We will not go behind your backs and tell you stories. Were here for you to think about this and tell us what you think, give us your opinion. If its too late don't get mad please.

Mr DJIRRIMBILPILWUY: We are getting 2 different ideas. What I was going to say is that we should have a look. This is just something that government is talking about so that all the people in the Territory can have a look at it and then decide for themselves how it will affect families in the Northern Territory in the long run. We have to look at it because we are not going to talk about something that is going to happen in 3 years time. Whatever is going to be put in is something that the people in the Territory will think about and discuss. It is important that whatever goes in it cannot be changed. Anything that is not included will have to be included. We will have to talk about some things that are not in there and which should be included. Like you say, we have got to ... (Indecipherable) I think that is the most important thing that has to be spelt out clearly to the people. We don't want to be talking about it here ... and someone else somewhere else.

Mr LANHUPUY:

This is what it is like for us Yolgnu. We've got land rights and our land rights uphold our customs, our ceremonies, our laws, our sacred sites, all of our cultural beliefs. Our land rights protect all of these things. We don't have that kind of land right legislation for all Northern Territorians such as Balanda, Chinese, and whoever else is living here. For Yolgnu we have land rights.

Mr MALAWA:

For the what?

Mr LANHUPUY:

Lots of other, mari, we don't want to argue.

Mr DJALANGGI:

Mori, one thing, it looks like we are learning, then later on we might come up with one strong voice, us, these mob.

Mr LANHUPUY:

It's like this, the main thing is the paper. We've got it for you to have a look at it, and later we'll have a meeting on the constitution that it will be for us. Get yourselves prepared for us and really look into this, then make yourself aware of what is going on. Then if you want to know more, we will come to see you. As you know I stick around here, and you never ask me about these things, you just ignore me, you can come and ask me anytime about this paper.

If you want to speak to this Balanda lawyer, you come and see him anytime, he's available.

Mr DJIRRIMBILPILWUY:

Another thing is (can't hear) we have to do some thinking about this one and come up with ideas, questions and answers. (continues in English) We don't want to rush it. We don't want to rush it. We want to take time. We don't

want to have to talk about it now or next week. Take time, a lot of people will want to know about it.

(Can't hear)

Mr LANHUPUY:

That's functional, right. Let us all look at this very carefully. At the moment we are asking the Board. "Give us our responsibilities, we'll look after them ourselves". And let's leave our discontentedness and other things behind. We'll look at them later.

(Discussion inaudible)

Mr LANHUPUY:

We will come up with certain points that we want to debate when we come face to face at the big conference. You will see different people. There will be lawyers, women's rights, environmentalists, Yolgnu people and pastoralists etc.

Mr MALAWA: Health, Education.

Mr LANHUPUY:

Yes, during the big conference there you will see educationalists, health workers, doctors, anybody who is interested in doing something. It's big this, asking for a constitution. We will all have our own separate interests, pastoralists, land rights, mining and others.

Mr DANGATANGA:

It is okay for areas like that but then later, what are we going to do with our customs and all of our other traditional Yolgnu business and belief systems.

(Discussion inaudible)

Mr LANHUPUY:

We are talking about the one thing for the constitution. There are a lot of people who are interested in those things for the constitution. What are your concerns about? Land rights, mining, sea rights, and others? We'll be looking at those and other Yolgnu business later.

Mr GANDHUWUY:

Power?

Mr DATJARRANGA:

We have to talk about this again.

Mr GANDHUWUY:

Are we going to get that power to run all of that ourselves?

Mr LANHUPUY:

It's like this, for example, this man Djilipa, he didn't want to stay here and work for the council. He went away and stayed at Gitan (outstation). He said to himself, "I'll stay here and work for myself, I'll get the water running", and other things which he planned to do. This is how it is. He was frustrated working with the council. He wanted to work by himself, on his own. He stayed at his outstation on his own with his family. This is what it really means.

Mr MALAWA:

The best thing is to get more information.

Mr DJINIYINI:

He just had to tell us this, but it's our decision.

Mr LANHUPUY:

I've just told you that and we will leave it to you mob.

Mr DJINIYINI:

And if anything goes wrong we will have to call Steve and Lanhupuy any time. Just get the phone, get the council if you're not sure, as Steve said. That is it. We have to talk about this, it's your decision whether we want it or not. It sounds like we are a mutika (motor car) with no engine, a vehicle with no engines that's what we all have said. (continues in English) We want that Canberra to put a engine in the truck.

Mr HATTON: Can I just say one thing. A constitution is not a thing to be frightened of. The constitution cannot take anything away from you. It can only give you rights. Okay? It cannot take rights away from you. It can only give you rights. What a constitution does is put limits on government from the people so that, in that way, it gives you rights. If you do not have a constitution, the government can do what it likes. That is the way you protect your rights and stop the government from mucking around with them. Therefore, it is a way for you to get rights that governments cannot touch. They cannot take any rights away from you. If you do not have that constitution, you have no guarantee of any rights.

Mr GANDHUWUY:

I have a question to ask, Wesley, what's the Federal's capacity to override the state in the constitution?

Mr HATTON: Well, you have the states and the Northern Territory. They are different. What we are talking about is that, one day, we should be on the same level as the states. The Australian Constitution lists all the things that the federal government can do and everything else belongs to the states. It divides up the jobs for a separation of powers.

There are some things that only the federal government can do and there are some things that both the federal government and a state government can do. Those are called concurrent powers because they can both exercise them. Where they are both allowed to exercise the same power, then the federal power sits on top of the state one. All right? But, the constitution sets out what the federal government can do and what a state government can do. It also sets out other rights for people who live in the states. For example, if you live in a state, the federal government cannot just take your property. If it needs some property for Commonwealth purposes, it has to buy it. It does not have to do that in the Territory because we are not a state.

Mr DAJANNANGA: But, land rights is doing that already.

Mr HATTON: No, it is not in the constitution. The Land Rights Act is an act of parliament. You must remember that what governments can give, governments can take away. But, what the constitution gives, the government cannot touch. That is the difference.

Mr DAJANNANGA: What you are really saying is that the land rights will be looked after by the Northern Territory.

Mr HATTON: Well if that happens, yes. You might say: 'I do not trust this Northern Territory government with land rights. Everybody keeps telling me that, if we become a state and the Northern Territory government gets the Land Rights Act, it will take all our land from us'. That is what people are telling you, isn't it? That is absolutely untrue but, if you do not trust us, you can put it in the constitution so that we cannot touch it.

Mr MALAWA: What's the (can't hear) in the constitution?

Mr DJINIYINI:

Let's put all of our laws to become one strong law. For example, (can't hear), Wakupulu, (relationship term to a group of people in one clan) these mob they argue with the council all of the time for money. This is a clear picture

for you to see. They argue with us the Council, but they don't have any power without a law. They never look into the law to make it clear and we never say anything back to them. Alright? So I invited Galarrwuy to come, I said, "Galarrwuy, I want you to come over here". I asked the lawyer to come too, and I said to the lawyer, "Please, I want you to make a law for these people because they're not getting money for the Barge landing lease". So he came last week. Then these people wrote a letter saying, "We want this, this, and this. We would like you to do all of this for us". Galarrwuy said, "I have to go and come back some time, and I'll ask the lawyer to look at your letter".

Mr LANHUPUY:

That's not it, but it's something else to think about.

Mr DJINIYINI:

Anytime people come and they always argue with the council. At the moment we are controlled by strings,

Canberra tax strings, Northern Territory tax strings to Canberra. They can take power away from us. We have got no power, they can take it any time because we have got no constitution. Let's not make this to look like an argument. They are just presenting us with this to make us aware. What is the name for this proposal?

Mr MAWUNYDJIL:

It's like giving us an explanation.

Mr DJILIPA:

Let's all listen to this story.

Mr MAWUNYDJIL: Because long time ago people just come, they tell and they go. But now they are showing us the proposal. We study it, read it, talk about it, call people to come and say, we want this, this, and this law that nobody can broke (break), law.

(Can't hear)

Mr LANHUPUY:

That sounds okay (mori), because that's the reason why.

Mr DJINIYINI:

That's alright, but let's not make this to look like we have to quarrel. The fight will begin later. I reckon we will not talk about this any more. After we have looked into this matter we will have to sort things out.

Mr DJILIPA:

This is just a local community meeting. (can't hear)

Mr LANHUPUY:

Over at the idea centre they have got this kind of paper, nearly every one of us have that kind of paper (constitution?). It looks like we are going well with that. Plans and paper. Everything is governed by the holding of bits of paper. (can't understand)

Mr GANDHUWUY:

So let us all try and chase up these laws. Let's not stay unnoticed all of the time. This is what this paper is here for. These two have told us now and let us all begin to do the work together, don't leave one person to do all of these things. That's not good, not fair.

Mr LANHUPUY:

It was through this process that New Guinea became independent, but first they had to go through this law. Before New Guinea was under Australia, Australia looked after New Guinea, then they became independent. This is what we are trying to be. We have to go through this law and have a constitution before independence.

Mr GANDHUWUY:

Okay, you must do something for us.

Mr LANHUPUY:

Yes, OK.

Mr GANDHUWUY:

Let's not get lazy, let's get on with it, let's not waste time. Let's keep up our participation with this one so that later we won't get surprised.

Mr LANHUPUY: (Inaudible)

Mr GANDHUWUY:

Those papers on Town Clerks and other important jobs.

Mr LANHUPUY:

We only look into what they are arguing about, and the legislation is not ours.

Mr GANDHUWUY:

If they do that, we have to do the same as what New Guinea did. Their problem was ...

Mr LANHUPUY:

We will have our problems but we are asking for this main thing. We must put our laws in a constitution first, before we continue to argue. We cannot get away from this, even our Land Rights Act which is a central issue. Our laws have to be (Inaudible)

Mr GANDHUWUY:

Understood. (can't hear). I'll come back to that later.

Mr LANHUPUY:

Here is the paper we will (can't hear) others for them mob.

Mr GANDHUWUY:

We will just have to see to that.

Mr DJALANGGI:

It is not time for a referendum, or you might say it is. They have to introduce it to the Council and there is a lot to think about. We cannot do it in just one year.

Mr HATTON: We have come here today to tell you what we have to do. We will go away and give you plenty of time to think about it. I am not asking you to tell us now what you want. We are here simply to tell you that we have to do this job and to ask you to start thinking about it. We will come back later when you are ready.

Mr LANHUPUY:

We talk only for a while and then our head spins. For me, I am the one who sits and listen to their (Balanda) arguments, which makes me feel heavy. (can't hear)

Mr HATTON: Talk to all the communities. You will have to be talking to the people from down in the desert country and to people in VRD, Daly River, Darwin, Alice Springs - everywhere. They all have different ideas.

Mr LANHUPUY:

Let's close this meeting, right?

Mr DJINIYINI: I think everybody understands what you have come out here to tell the council. On behalf of the council, I once again thank you and your team for coming out here to talk about this. The council will talk about it and find the time to have a community meeting. We appreciate your talking to us. Thank you very much.

Mr HATTON: Thank you very much.