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LEADER OF THE OPPOSITION – TRANSCRIPT – JOINT PRESS CONFERENCE WITH MR JULIAN LEESER MP, SHADOW MINISTER FOR INDIGENOUS AUSTRALIANS AND SHADOW ATTORNEY-GENERAL, CANBERRA

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Subject: Indigenous Voice to Parliament.

E&OE

PETER DUTTON:

I'm very pleased to be here with Julian and happy just to make a couple of comments in relation to the government's announcement on the words around the Voice.

The Coalition has been very clear from day one, that is that we wanted to engage in this process in a respectful way, or with a starting point of wanting to see a better outcome for Indigenous Australians. The onus has been on the government, continues on the government, who proposes this set of questions to demonstrate to the Australian public how the Voice can improve the lives of Indigenous Australians, particularly in areas like Alice, like Laverton, Leonora and elsewhere around the country. The onus is on the government to demonstrate how this form of words and the change to our Constitution will deliver the outcomes that people will want.

Now, the Liberal Party's been consistent also from day one in saying that we want to contemplate and consider what it is the government's putting forward, look at the pros and cons, hear the cases for and against, and then we would make our decision as to whether we supported the Voice or not.

I want to reiterate today that that process doesn't change with the announcement of the Prime Minister's words. We will meet as a Liberal Party Party Room, and we will form a decision in due course about whether we support the Voice or oppose it. That's the process which we've adopted from day one and that we will continue with.

There's obviously already been some question marks around the words that have been proposed. Now this is the third set of words that the Prime Minister has put. There have been legal ambiguity and doubt around some earlier versions, and it seems at least on the early advice from Greg Craven, who's been a strong supporter and indeed adviser to the process of the Voice, now has expressed his view, his reservations about the words and the way in which they will impact on the Constitution. So, that's the first authority, if you like, in relation to the Voice and the construct of these words.

I think it's absolutely essential that the Prime Minister releases the Solicitor-General's advice. From what we've read in media reports, the Solicitor-General has concerns about these very words and whilst there's been some cosmetic tweaking of them, there's not a substantive change in that regard, that as I understand it, would assuage the views or the concerns of the Solicitor-General.

Now, it's important that the Solicitor-General's advice is released because in the absence of that advice, and in the absence of detail from the Prime Minister, how can

the Australian public make an informed judgement about a very, very important issue? So the Prime Minister, I think, owes it to the Australian public to release that advice and there's precedent for it which Julian might outline to you, and it would be very strange, particularly given the Solicitor-General's presentation to the Referendum Working Group, for them not to release that information and his advice about the form of words that the Prime Minister has proposed today. Julian.

JULIAN LEESER:

Thanks Peter. After the Solicitor-General went to speak to the Referendum Working Group and there were reports about the Solicitor-General's advice and discussions with the Referendum Working Group, I wrote to the Attorney-General asking him to release the advice. That advice still has not yet been released. There is a precedent, as Peter says, in the Republic Referendum, in the Republic Advisory Committee, which was set up by the Keating Government, there was detailed advice from the Deputy Solicitor-General as to the workability of the proposed Republic model at that time. So I think if the government wants to build confidence that they've got the right set of words, they should provide people with the advice that the Solicitor-General has given on these matters.

PETER DUTTON:

Okay. Now I'm happy to take questions on this topic and then I'll move on to other topics after that.

QUESTION:

Mr Dutton, one of your chief concerns as you've said, is whether this will have a practical impact. The Prime Minister and those who stood with him today were quite adamant that it would in terms of if you want to fix stuff, stop doing the same stuff we're doing as it's not working and listen to those on the ground. Do you agree at least with that principle, even if we don't know the sort of (inaudible)?

PETER DUTTON:

Well Phil, we went to the last election with a model of local and regional voice and wanting the input from Indigenous elders and residents, particularly in regional areas. We've been out to WA, we've been up to East Arnhem Land, I've been out to Palm Island off Townsville. We've spoken with Indigenous people on the ground. They want the detail as well. It's not just millions of Australians who are non-Indigenous who want the detail, but many, many Australians of Indigenous heritage also want the detail and I don't think it's too much to ask for.

Some of the groups are more worried about practical action than they are the Voice. That's the advice back to us. So, the principal of a local and regional voice, we went to the last election, but there's no evidence within what the Prime Minister has put on the public record so far as to how that would work and where would the practical outcomes be. So, I think the detail is required. It's essential that the Solicitor-General's advice is released and then Australians can make an informed decision.

QUESTION:

The group did put out, I guess, what they call key design principles today, and I think in the three page document, it goes to things of like it will be gender balance, that it will be representative, that it would work with existing institutions and that sort of thing. Does that, I guess, satisfy your request for more detail or are you still asking for more detail? And if so, what level of detail would satisfy you?

PETER DUTTON:

I've written to the Prime Minister. I proposed 15 basic questions, pretty common sense questions that Australians are asking and the Prime Minister hasn't responded with the detail, even to this very day. So, I think it is incumbent upon the Prime Minister to explain to the Australian public, if you're proposing a very significant change to our founding document, how will it deliver practical outcomes for Indigenous Australians? And if he can't provide that detail, then he needs to explain why? So, I think there is a lot of detail that has been requested and there are many more questions that have been posed today as a result of the third form of words put forward and Mr Craven, obviously, has expressed a view about that and others will as well.

QUESTION:

On the design principles, it does say, 'the Parliament and Executive Government should seek representations in writing from the Voice early in the development of proposed laws and policies', just quite broadly. I just wanted to ask you about that. Obviously, laws and policies, that's quite broad. Do you have any concerns about the scope of that and do you have any thoughts about how that would work with Cabinet in confidence, if you're writing to a group of 24 people very early on in your policy proposals?

PETER DUTTON:

Well, we just don't know any of that detail, and this is the reason we're at a disadvantage and the government can't out-legislate the Constitution. That's the reality. So, if you're putting forward a form of words which is open to a broad interpretation by the High Court, then the Parliament can't rectify that. That's the issue here. What the government's proposing at the moment is that the Australian public will go to vote on a Saturday and then from the Monday on, for six months there'll be consultation on the model. Now, that is putting the cart before the horse and a lot of that detail can be ironed out, it can be put forward, proposed and people can then make a judgement about whether this is going to improve the situation for Indigenous Australians or whether it's going to put another layer of bureaucracy in place.

So, I think the design principles are fine, but people want to know the detail, how practically it will work and as importantly as anything, the considered legal advice around what the words will mean because the Parliament will necessarily have to be guided by the High Court interpretation. You can legislate for what you want and I mean, just to go beyond the examples you've given, *in extremis*, if there is an urgent Bill that the government needs to bring before the Parliament in relation to all manner of issues, what happens there if there's a truncated process? What would the High Court find in that regard? These are some of the questions potentially that the Solicitor-General's advice could address, but of course we don't have that advice.

QUESTION:

Can I just ask Mr Leeser, with the wording, if it was to 'Parliament and Ministers', would you be more relaxed about it firstly, and do you see the reference to Executive Government opening up advice to public servants and that public servants might have to, senior public servants have to then seek consultation with the Voice before they finalise any judgement on anything to do with an Aboriginal person?

JULIAN LEESER:

Well Kieran, on the wording, this is why we've asked for the Solicitor-General's advice to be released, because the Solicitor-General obviously had concerns with the wording. He reportedly proposed an alternative form of wording. That alternative form of wording as reported doesn't seem to have been adopted. There's a committee process that will weigh these things up.

We look forward to seeing different lawyers test the words that have been put forward, and I think that that's an important thing to do. It's certainly the way that we've always approached these discussions, which is looking at things seriously and try to ask good questions about what the effect of what the government is proposing going forward.

QUESTION:

If the Solicitor-General's advice is, in the main, satisfied with the question once it is released, if it is, will that satisfy you enough for your Party to move? What will it take for your Party to support this?

PETER DUTTON:

Well, I think first point is that we need to consider the Solicitor-General's advice. The government hasn't agreed to release it, so let's see their arguments for against releasing it, but I do think it's in the national interest for the Solicitor-General's advice to be released and then it can be considered. The other point is that if the Solicitor-

General's advice has been overridden by the view of the Committee, then the Australian public should be made aware of that.

The Solicitor-General – on the media reports at least – wanted the word 'Executive Government' moved, or 'executive' moved out of the words because of the high risk that that posed in the High Court. Now, if the Prime Minister has overridden the advice of the Solicitor-General, in favour of the view of the working group, then he should be upfront with the Australian public about why he's taken that decision against the advice of the First Law Officer and I think that is very significant and it should be explained.

QUESTION:

Just on your 15 questions that you've talked about before, some of the questions were answered today by the detail put out by the Prime Minister's working group. Are you going to re-examine those questions now and in the light of the information released today?

PETER DUTTON:

What I'm hoping for is that the Prime Minister can provide the detail. I've written asking respectfully for the detail from the Prime Minister, and frankly, I think that's the expectation of millions of Australians. The Prime Minister refuses to provide the detail that we've asked for and I think it's incumbent on the PM to provide that detail.

QUESTION:

You were briefed by the Prime Minister this morning, you may have already answered this, sorry, I was a couple of minutes late, but you were briefed this morning. Did you ask him in that meeting for the advice from the Solicitor-General?

PETER DUTTON:

Firstly, I'm grateful to the Prime Minister that he invited David Littleproud and I in just before he did his press conference just to advise what had been decided upon. I'm not going into the detail of the conversation beyond that. It was respectful conversation, as most conversations are that I have with the Prime Minister, and we'll continue that discussion, but I don't comment on private discussions.

QUESTION:

You say that you're going to look closely at this and make up your mind eventually. When you say that, just to clarify, are you speaking as the Leader of the Coalition, including the Nationals, or just as the Leader of the Liberal Party. Are you expecting any change on the Nationals stance on this?

PETER DUTTON:

I've been very clear I'm speaking as the Leader of the Liberal Party. The Nationals have made a decision. If there's a change to that, that's an issue for the National Party, but I don't believe that to be the case. So no, I've been I've been clear from day one that it's a Liberal Party process and to go to the question that was posed otherwise earlier, the Liberal Party will meet in this room as a body and we'll look at what the government has provided to us. At some point, you can only be strung along for so far without the detail and you need to consider what the government has on the table, and then we can make a decision as a Party Room whether or not we support the Voice.

We've been constructive with the government this week in relation to the Bill that's been, you know, dealing with sort of the behind the scenes, the mechanics of the Referendum, but that's not an indication of our support or otherwise for the Voice. We've been clear from day one that we will make that decision and we'll make that announcement when we can. Are there other are there other topics that you want to ask?

QUESTION:

When you saw Indigenous leadership crying today at that press conference, were you moved?

PETER DUTTON:

I'm happy to take questions on other topics.

QUESTION:

We've got questions on this topic still. You said that there was no evidence put before you that this would work on a practical grounds. Do you disagree with the assertion that it's programs that are designed in concert with Indigenous communities that are actually effective? Do you disagree with that?

PETER DUTTON:

Look, I'll just make this final comment and then I'm happy to move on to other questions if there are no other questions then I've got another meeting that I'm late for already.

So look, I've seen Indigenous women crying in the meetings that we've gone to, and it's heartbreaking to see the situation in Alice Springs. It's heartbreaking to see a young person killed in Darwin. I wrote to the Prime Minister last year asking for a Royal Commission into Alice Springs because the level of sexual violence against children is an abomination and it's a national disgrace. I want to know that the Voice is going to provide a better outcome for those young people and if it's not, is there a better way?

If it's going to make it more difficult because it's another layer of bureaucracy and it makes it harder for those women in Indigenous communities to be heard, then we need to understand all of that. But we don't know in terms of what the Prime Minister's promising at the moment or proposing at the moment any of the detail about how it would help those kids.

It breaks my heart to see those children and women in that dire situation. But I can tell you, when we went to Leonora or to Laverton, for example, the Voice is the furthest thing from their mind. They're already screaming to the government saying 'reintroduce the alcohol bans'. 'Reintroduce the Cashless Debit Card', and the governments refused to hear that voice. I think it's reasonable that the government provide the detail, and that's the raw emotion that we've seen and that we've experienced.

I have the utmost respect. We've had a couple of meetings with the working group and I understand the passion in that room, but my passion is for helping Australians who are desperately in need and that includes at the top of the list at the moment those kids in Alice Springs and I want a better outcome for them.

If we're going to change our Constitution in Australia – we're in favour of Constitutional recognition, we've been very clear about that, we went to the last election with a local and regional voice allowing for a voice of Indigenous Australians to have a say in public policy – so we support that.

But the Prime Minister at the moment is acting against the Solicitor-General advice, it seems, and I think it's incumbent on him to release that detail, to release the legal advice and to explain why he's gone against the legal advice of the person charged with providing the most important legal advice to the government. He's the highest ranked officer in the public service to provide legal advice to the Prime Minister, and the Prime Minister has gone against his advice and we need to understand why?

QUESTION:

(inaudible) Solicitor-General's advice. You say that you haven't seen it. How do you know he's going against the advice?

PETER DUTTON:

Well, we've seen the media reports that the Solicitor-General has had significant concerns about the word 'executive'. That relates to a meeting that took place over a

week ago. The government hasn't sought to...

QUESTION:

...there were also reports though that that was stress testing of the legislation, that it wasn't necessarily a hard recommendation, that it was stress testing for this particular situation and going against the High Court. So, are you making an assumption here?

PETER DUTTON:

Well, I don't need to hear the Labor Party talking points. I guess the point that I was mid-sentence on was that the government's not sought to clarify or say that that was inaccurate reporting, and as I recall, very credible journalists from Fairfax and from News and no doubt from others in the room here who put those stories out, citing several sources within the room. There seems to be a fairly open feed out of that meeting as to what's happened. So, if the reports aren't accurate, I would have expected the Attorney-General to correct the record between then and now.

QUESTION:

Didn't we hear a lot of this before the Apology that there were going to be legal challenges if the government said 'sorry' to the Stolen Generations. Is it...

PETER DUTTON:

I think we're talking about a Constitutional change here Phil, I mean this is...

QUESTION:

Sure, but it was the same thing. There was legal advice saying there would be a raft of...

PETER DUTTON:

Well, I don't think there was ever any question of a Constitutional risk around previous debates. This is probably the most significant change to the Constitution that we will see in our lifetime and the Prime Minister's gone against the advice of the First Law Officer of our country and you have a situation where he won't release the legal advice.

I think there are others, including Craven, as I say, who's been strongly supportive of the Voice who is out today saying 'this form of words is worse than the previous three versions'. So, you know, I don't think that's inconsequential and I think it should be taken into consideration.

All right. Thank you very much.

[ends]

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