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SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

Reference: Administration of Indigenous Affairs

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SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

Friday, 4 February 2005

Members: Senator Moore *(Chair)*, Senator Johnston *(Deputy Chair)*, Senators Carr, Crossin, Heffernan, Nettle, Ridgeway and Scullion

Senators in attendance: Senators Carr, Crossin, Heffernan, Johnston, Moore, Nettle, Ridgeway and Scullion

Terms of reference for the inquiry:

To inquire into and report on:

(a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;

(b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and

(c) related matters

WITNESSES

BEAN, Ms Lynn, Acting Deputy Secretary, Arts and Sport, Department of Communications, Information Technology and the Arts 35

BEAUCHAMP, Ms Glenys, Group Manager Families and Children Group, Department of Family and Community Services 47

BUETTEL, Mr Rohan, General Manager Public Broadcasting, Department of Communications, Information Technology and the Arts 35

CARTERS, Mr Graham, Group Manager Working Age Policy, Department of Employment and Workplace Relations 19

CLARK, Mr Geoffrey Wayne, Chairman, Aboriginal and Torres Strait Islander Commission 1

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HARVEY, Mr Robert George, Group Manager Community Development Employment Project, Department of Employment and Workplace Relations 19

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WATSON, Mr Patrick Gregory, Acting Chief Executive Officer, Aboriginal and Torres Strait Islander Services 73

YATES, Mr Ralph Bernard, Deputy Secretary, Office of Indigenous Policy Coordination 73

Committee met at 9.07 a.m.

CLARK, Mr Geoffrey Wayne, Chairman, Aboriginal and Torres Strait Islander Commission

FOLEY, Mr Clifford Williams, Commissioner, Aboriginal and Torres Strait Islander Commission

CHAIR—Good morning. I declare open this public meeting of the Senate Select Committee on the Administration of Indigenous Affairs, sitting in Canberra. This committee was reappointed on 17 November 2004 in the 41st Parliament to continue the inquiry begun during the 40th Parliament. The inquiries have the same terms of reference, which address the administration of Indigenous affairs in Australia, with particular reference to the abolition of ATSIC and the mainstreaming of services for Indigenous people to individual government departments. The committee has adopted all of the evidence collected during the first part of the inquiry, including the transcripts of evidence from public hearings in Alice Springs, Broome, Darwin, Gove, Thursday Island and Cairns, and we have subsequently met in Brisbane, Moree, Sydney and yesterday in Canberra. Before commencing, on behalf of this committee, I would like to acknowledge the traditional owners of this country.

I understand that as experienced witnesses you do understand the rules about in camera evidence if at any time you choose to go into that process. Gentlemen, you have both done this many times, so you understand that you may make some general statements or an opening statement, and then we will go into discussion with the senators.

Mr Clark—The more people can hear us the better, I think, so I certainly will not be requesting an in camera hearing. Thank you very much for this opportunity to make a presentation. I have had a bit of a chequered career, and I think that in the last year or two nobody would have expected that I would be re-presenting as the ATSIC chair, given the circumstances. I have a number of points that I would like to make, and I will hand up this correspondence. I do not want to talk too much, necessarily, about the ATSIC submission, which I think is a very good submission. I believe that you have a copy of that.

CHAIR—We do, Mr Clark.

Mr Clark—That refers to a number of international conventions. I will go into that. I will also be speaking briefly about ILO convention 169—I have a copy of that—and the Federal Court decision of Clark v Vanstone. I think the outcome of that court decision is pertinent to the inquiry. I want to talk a little bit about the community, which some of you are familiar with and have visited on occasion, and what impact this has had on Aboriginal affairs. I also want to allay some of the misconceptions that have been circulating in the media of late and make reference to the vilification that has occurred in relation to ATSIC. I have a really good example of how that situation has certainly been distorted and I want to produce some correspondence in relation to that.

Firstly, I will turn to the ATSIC report. It talks about a number of committees and reports that recommend the way that ATSIC has been operating. It talks about the capacity building inquiries that different select committees have had, which have discussed ATSIC and how it functions. It

also talks about the international role that ATSIC has played. When you read through that, it provides, I think, a very good road map as to what ATSIC achieved over its time, how it operated and how effective it was, contrary to media speculation and maybe government perception. That report puts the record straight, and I would recommend that you certainly take note of that commission.

I think 17 countries have ratified ILO convention 169. I will just go to article 4, which talks about special measures. It is only brief. It states:

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

That talks about institutions and I would think that would refer to the regional councils, the Aboriginal organisations and the need to have a voice—something that is culturally sound and has the capacity to represent the views and choices of Aboriginal people. Article 20 of that ILO convention states:

1. Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers ...

They are just two of the articles. ILO convention 169 was something that I was involved with, with a number of people from Australia, in 1990. It has not been ratified by this government, but it is certainly there as a guide. It is a minimum standard. You would also find that the draft declaration on Indigenous people's rights recommends certain standards which I think this committee needs to take some heed of. I will also hand that up.

In relation to that, when you consider that ATSIC had an employment level of Aboriginal people across its administrative arm of 60 to 70 per cent, and at SES level I think we had 40 to 50 per cent, that has now been reduced to a very minimal amount. If you go to the third floor of Lovett Tower in Woden, you will find all these Aboriginal people sitting on the third floor who have been discarded. They were falsely led to believe that they would be placed in the new system of ATSIS. I think the only thing preventing that story from being made more graphic and widely understood is that the secrecy act or whatever they sign as public servants probably prevents them from giving evidence at this hearing. But it is certainly something that would be worth while for this committee to hear, but that is for your own choosing.

I now go to some of the correspondence of late about the situation in relation to the assets of ATSIC, including the artwork et cetera. There has been an exchange of letters that I will table for the senators in which I tried to clarify where these assets may sit, the legal position of the board of commissioners, and the capacity of the commission as it is currently constituted to use these assets—to transfer, to divest—for the benefit of Indigenous people. As you know, the commission's capacity is that it needs to consider each and every caveat on Aboriginal properties. In this situation I had cause to write a number of letters to the CEO of ATSIS, Mr Pat Watson. I believe that Mr Gibbons is presenting here today. There may be some current issues you wish to raise in relation to these matters. Clause 24 of the ATSIS/ATSIC agreement says:

24.1.1 ATSIS will provide, without cost to ATSIC all legal services which in the opinion of the CEO of ATSIS it requires to properly carry out its functions under this Agreement.

24.1.2 Where there is a conflict of interest which cannot be resolved in a reasonable time, then ATSIC may obtain its own legal advice which the CEO of ATSIC will commission on their behalf.

In a letter to me on 15 December, Pat Watson says:

In the ordinary course, I would be able to provide that advice to you in accordance with clause 24.1.1. However, it is likely that, in the circumstances of the present time, the Commonwealth would be concerned to inquire into the propriety of any attempt by the Commission to dispose of assets and for that reason, I consider there to be a potential for a conflict of interest in my providing that advice to you.

He goes on to say:

Clause 24.1.2 should therefore operate. As the Acting CEO of ATSIS, it is not incumbent upon me to commission that advice as that is properly the role of the CEO of ATSIC.

We do not have a CEO of ATSIC. Pat Watson is the CEO of ATSIS. The CEO of ATSIC does not exist. So here I am inquiring as to how I may dispose of assets—divest. At the last board meeting we divested a property called Yipirinya to the Central Land Council—the investment corporation in Alice Springs. That has not yet transpired. Certainly there are obstacles in that transfer of an asset. That is to benefit the Aboriginal community. Our intention is clear: it is not to sell assets for court appearances or any other purposes; it is purely to benefit the Aboriginal community. I tried to get some clarification of these matters, and that is one letter which I will present. Another letter I will refer to is the letter regarding the funding of legal advice, dated 27 January 2005, written to me by Pat Watson. The letter read:

In your letter you indicated that you will be approaching Coadys solicitors for the provision of legal advice in respect to the disposal of ATSIC's assets and caveats on properties in which ATSIC has an interest.

There are two issues which I consider need to be brought to your attention.

First, in respect to the cost of this legal advice, you have indicated that any account from Coadys solicitors will be forwarded to myself for payment. You should note that as CEO of ATSIS I will <u>not</u> agree to ATSIS meeting any of the costs for legal advice that you as the Chairperson of ATSIC seek in relation to these matters. Should you make a commitment to Coadys to meet such costs it is in your role as Chair of ATSIC or in your own personal capacity. You are unable to commit the Australian Government in relation to these expenses.

Secondly, I remind you that any commitment entered into to expend ATSIC monies must accord with the Budget as approved by the Minister for Immigration and Multicultural and Indigenous Affairs.

They have attached the budget.

We have this ATSIS-ATSIC agreement. This man has refused me the capacity to get independent legal advice. He has noted his conflict of interest and he has gone to the relevant clauses, and that is the situation. I continued to write correspondence, which I will table. It is

probably not necessary for me to read it out. But this particular letter is probably relevant to senators. It is a letter from me to Mr Watson. The letter reads:

Thank you for your letter of 17 January 2005. Given your comments regarding a potential for conflict of interest in you providing legal advice about the requirements for disposal of part or all of ATSIC's assets and the fact that there is no CEO of ATSIS I now advise you that as Chairman of ATSIC I will be seeking this legal advice as a matter of urgency.

As well in the last week it was brought to my attention there are caveats on properties that represent significant impediments to Aboriginal people attempting to break out of welfare dependency by using these properties to carry on economic activities. In this matter I also seek legal advice.

What I am attempting to do is to give the communities an opportunity to continue to carry out business and therefore provide employment opportunities.

There is one situation that I know of where there is a $40 million to $50 million project which has now been held up. That is a real employment opportunity for the community and we cannot meet the caveat. The government will not give us a budget to meet it. In fact, what they are doing is threatening to cut off my phone. One of the reasons Commissioner Quartermaine cannot be here is that he cannot be contacted. That is the state of affairs for ATSIC. I as the chair have no staff. Even the request to come to this committee meeting was refused by ATSIS. Here we have an agreement. We have $10 million or $20 million of uncommitted funds in the bank. We asked for a variation on that budget and it did not occur. It is extremely difficult to carry out business and continue to represent the Aboriginal people. That is absolute negligence on behalf of the government. I will table those letters for the information of senators. There are a number of pieces of correspondence that you may wish to take note of.

I will now turn to the Aboriginal community that I come from, which is Framlingham. We have a ridiculous situation where we have been told that because of mainstreaming the functions of community infrastructure will not be continued. These are the new arrangements. It has got to the ridiculous point where the public have been sold this puppy that things will be better under mainstreaming. Mainstreaming has never worked for Aboriginal people. The fact is, there is an extensive list—and I will hand it up to the Senate committee—of the services that the Aboriginal community at Framlingham provides. I used to be the administrator and I am certainly familiar with its role and functions. This would be no different from any Aboriginal community around the country. I use this as an example.

We are in control of water supply and reticulation; sewerage systems; rubbish collection; roads; and dog health programs. We provide a standard of living that incorporates cultural identity and maintenance with safe, healthy and secure community living areas; housing programs with tenants spread over a large area; an emergency housing system for extended families; education support programs, including a resource library used for school programs; sporting facilities and activities, including a gymnasium, netball teams, cricket teams, football teams et cetera to provide recreation in the district, which is fully supported by the community, such as by driving kids to sporting activities; recreational programs, including school holiday camps and activities; legal assistance; court representation—we deal with the office of correction—and police services. We provide political leadership on a whole range of issues, including in the international area, and financial counselling. We liaise with state and

Commonwealth departments. We provide advocacy and referral services; fire prevention; suicide prevention; disability care; men's groups and women's groups.

We run our own cemetery; archive services; the Boona pastoral company, which Bill is familiar with; cattle enterprises; Eumaralla Backpackers; cultural programs; the Kirrae Health Service; CDP programs; and the Brambuk Living Cultural Centre, which is one of the highest award winning purely Aboriginal run and owned cultural centres and which has been operating efficiently and effectively for 15 years. We have a native title advice group and emergency relief. We support a local reconciliation treaty. We have ATSIC's chair, transport services for the community and an Indigenous protected area. We also participate and arrange a regional justice advisory committee; a land council; a cultural heritage program; a family violence task force and a local Aboriginal consultative group.

As a partner with government, Aboriginal communities right around this country provide a similar range of services and activities. How can we expect that mainstream services will come out and provide even half of those services? We think that is a ridiculous ask of any mainstream service. I had a meeting with a state FaCS officer yesterday who was just appalled at the lack of direction she is receiving on this transition. In fact, I raised a number of issues. We have a water and sewerage system that we operate. For six years we have been planning to overcome some of the design faults. There have been two times in the last two of those six years when we have had an additional amount of money approved. That has been held up twice at a ridiculous point. This is the new administration of Aboriginal affairs.

I have here a traffic violation for a vehicle that the community does not even own. It has been registered in our name. It is a garbage truck—a tip truck—that has been approved twice. It has been registered in our name. It has a traffic violation. We have a $40 fine. I have been informed that the truck will no longer be made available to the Aboriginal community. We are now paying fines for it because somebody in some place has decided that. It has been a waste of time and resources to put in an $80,000 transfer station to collect our own garbage. You need a garbage truck to do the actual collection and to complete the actual program. Here we have a situation where, if this purchase does not proceed, a $20,000 penalty will be imposed—let alone the penalties we are incurring for the phantom truck. That is the new Aboriginal affairs. I might move on a little bit. I am not sure how the time is going, Chair.

CHAIR—Mr Clark if you could cover your statement in about another five minutes that would allow half an hour for questions.

Mr Clark—I would like to make a couple of other points. The farcical debacle of my suspension needs to be raised with the committee. I want to read an extract from the findings of Justice Gray of the Federal Court. It is a 70-page report, which I will hand to the committee. I think they should read through this.

CHAIR—Thank you, Mr Clark, for not reading that!

Mr Clark—He writes:

My conclusion is that 5(1)(k) of the 2002 misbehaviour determination—

this is the misbehaviour determinations that were implemented by Mr Ruddock—

... both by itself and in conjunction with 5(5)(b) exceeds the power given to the minister by 4A(1) under the ATSIC Act to specify behaviour that amounts to misbehaviour for the purposes of the ATSIC Act.

There are some other readings in there. It goes on to say that the clause is:

... discriminatory against Indigenous people—

that is, the misbehaviour determination.

It imposes a higher standard of behaviour on those holding office under the ATSIC Act than is otherwise imposed by the law on those elected or appointed to similar offices under other legislation and is thereby racially discriminatory.

Here we have a government that has chosen not only to discriminate in the native title debate—and the finding of the CERD committee points that out quite correctly—but also to suspend the highest elected Aboriginal person in this country on a discriminatory basis. It has been found racially discriminatory. I will be appealing in the Federal Court on 15 and 16 February because the government has appealed the decision at the cost of another $40,000 to me personally. There is probably $80,000 worth of costs up front to continue to defend against discriminatory practices. You as the parliamentary representatives of this country ought to be appalled by that court case and that suspension.

Somebody needs to ask the question: what is it costing this government to continually pursue these types of issues in the court, and what is the purpose? We have no function as a chair. I can hardly afford a phone. My phones have been threatened to be cut off. I have statutory obligations and legal responsibilities yet I am treated like a criminal. I think it is appalling. There is no secret that in the past a number of accusations have been levelled at me—all of which I will be defending in the court and all of which are nearing conclusion. There is no doubt about that conclusion. I will be vindicated throughout these processes.

CHAIR—Excuse me, Mr Clark, are you and Commissioner Foley happy with the press taking photographs?

Mr Clark—Yes. With regard to the infamous Irish trip and the infamous trips that I make in the international arena to raise these matters, I need to draw your attention to a number of delegations in the recent past regarding human remains. One is in relation to a visit to Stockholm. I have a list of questions that I have asked the system. One of the strengths of ATSIC was that at least we had a capacity to investigate and query the actions of some of these people administering these programs. It was aboveboard and transparent and we would wear any criticism that came our way. That was par for the course.

There was this Stockholm visit from senior public servants including Peter Vaughan who used to be in the Department of the Prime Minister and Cabinet. It would be interesting to know whether he took his wife, and how many white people were on this trip. It was administered by the Kimberley Aboriginal Law and Culture Centre. I know there were white spouses taken. I know there were cancellations. I know that there was money paid back but somebody needs to get to the bottom of it. There is a list of questions here—I will not bother to read them out—that

you may wish to ask Mr Gibbons or whoever is fronting this committee throughout the duration of your hearings. They cover accommodation costs, airlines and delegations.

That leads me to the appalling situation of not two weeks ago when Wayne Gibbons, the saviour of Aboriginal people, went to London to recover remains. The box was empty. What did it cost Wayne Gibbons to go to London with Commissioner Dillon to pick up an empty box? They did not bring back any remains. They would have travelled first class. It probably cost the both of them $40,000. Did he visit his son at Oxford, and was it on his time, our time or the taxpayers' time? Who scrutinises these operations now? I have got to say, this phantom truck was a debacle—we had to go over for a symbolic act. It cost $40,000 to pick up an empty box. And then we were told by Mr Gibbons that it was a very emotional moment for him!

These processes were developed by Aboriginal activists and Aboriginal community members. You now want to get rid of ATSIC. On the capacity for Indigenous people to represent themselves at these particular forums, there is no doubt that we have had a partnership at the international level over 20 years of the draft declaration and at a whole range of forums. Who do you take along now—an elected representative of Indigenous people or do you take along an appointee or somebody who agrees with the government position? It is going to be an unbalanced debate, I believe, in Aboriginal affairs. It is certainly going to be unbalanced in the way we represent ourselves and in our partnerships. If we do not continue to have some representative voice at the regional, national and international levels, Aboriginal affairs will not exist in this country for much longer. I suppose I need to give you opportunities to ask me questions, so I might end here.

CHAIR—Thank you, Mr Clark. Commissioner Foley, do you want to add something at the beginning?

Mr Foley—I am here just to support our chair. If anything, I would like to say that, as a new board member of the current ATSIC board, I think that with what has happened and the denigration of us as Aboriginal people we have conducted ourselves with the utmost integrity. I say that to the committee, and I implore the committee and the government to look at that and judge us properly rather than through media interpretations. In our processes with the broader Australian public, there is nothing that we have done that can be held to bring Aboriginal people into disrepute.

Our communities and our people are owners of country. They are held in utmost respect, and it is those people who we represent, and we have represented them with the utmost integrity. All this situation—the way the elected representatives of Aboriginal people have been treated by governments and the media—does for Australia is to show the international media and nations in the United Nations that some of their findings about the discriminatory nature of the Australian government to its Indigenous people were right.

CHAIR—Thank you, Commissioner. Senators, we have not got much time, so I am going to request that you ask a single question and then when we get through we will start again. We will start with Senator Carr and then we will go from one side to the other.

Senator CARR—I thank you very much for your presentation today. Given the political situation as it stands now, do you acknowledge that there is a need for reform of Indigenous

administration? Given the current circumstances, with the government unilaterally deciding to put in place these new structures, what do you say to the proposition that the regional councils that are in existence and still operating could be maintained? What do you say to the question that the Torres Strait Regional Authority will be maintained under this legislation? Have you had an explanation as to why that is the case—the inconsistency in the approach taken on that matter? Do you believe there is any ongoing role for the regions if it is possible for this parliament to amend the current bill?

Mr Clark—There is inconsistency. The Torres Strait is unaffected by this and I wonder why that is the case. The infrastructure has certainly been used. I think there is a furphy about separateness and separate funding. I know from my visits to the Torres Strait that the infrastructure there is used by servicemen and for security reasons as well. So there is a sharing of resources. I would even argue that that is the case in relation to Aboriginal communities in remote areas. If you went to Wilcannia, some of these remote areas around the country or a lot of the towns in New South Wales or Victoria, you would find that there is a sharing of these resources. Partnership is a good description of that situation. Aboriginal people need the capacity to partner.

There is this threat to mainstream the funding and to stop the resources coming back to Aboriginal communities so that they will not have an administrative arm to develop dialogue with a whole range of different people. You asked me about the regional councils. Certainly there is no harm in retaining the regional councils as a representative structure. However, I think that our effectiveness as a board—and this is one of the reasons we are getting knocked over—has been at the national and international level. The fact is that we will have a weakened structure if you take away the national board and its capacity.

Senator CARR—Mr Clark, I might follow that up. I am not arguing that case. I accept the need and that is my position. As you know, I have argued publicly that we need a representative national voice for Indigenous people in this country and we need that particularly with regard to our international obligations. However, that aside, that is not what the government's policy is. We have to face certain facts in that regard.

Mr Clark—Certainly.

Senator CARR—While I might have a different policy, the question arises: what does this parliament do with the piece of legislation that we have before us, knowing full well that from 30 June they can do whatever they like? Do you see any merit in trying to continue the infrastructure, maybe through improvements, of the regional councils that exist at the moment?

Mr Clark—The short answer is yes. I would be encouraging the government not to throw the baby out with the bathwater, because those regional structures have legitimacy. They have a capacity to represent. In fact, they are the foundations of the national organisation. There is no doubt about their capacity to engage with local governments, various agencies and state governments—and the federal government, for that matter. That is certainly something that this committee would have to consider.

Senator JOHNSTON—Firstly, Mr Clark, I would like you to write to the secretary of the committee and set out your allegations very clearly with respect to this. Is it to do with the Stockholm trip?

Mr Clark—Yes. I have a document with a number of questions which pretty much set it out.

Senator CARR—Do you want to table those?

Mr Clark—I will table that.

Senator JOHNSTON—Okay, to be fair we want to ask the questions.

Mr Clark—Somebody needs to ask the questions.

Senator JOHNSTON—I will turn to the current situation, and to some small degree my question follows on from Senator Carr's question. I understand where you come from on so many of these issues but it troubles me that we have had 14 years of ATSIC but when we are out there talking to regionally based Aboriginal people—outside the big cities—and also to people here in the parliament, ATSIC does not appear to have built up a store of goodwill with either the bulk of its constituency or the two major political parties. I do not want to verbal the ALP but they are supporting the legislation that abolishes ATSIC.

Mr Clark—I think that policy disappeared with the leader, didn't it?

Senator JOHNSTON—I am not sure. Surely, that is a measure of the success of the concept. It does not reflect well on the concept of ATSIC. It has not been able to secure the confidence and trust of either its own constituency or the political masters that stand behind the funding. Is that not the case?

Mr Clark—No, I disagree because there are moments in history that are well recorded and documented where I think I have probably spent more time at the Lodge than the Prime Minister. We have embraced governments of both persuasions. Looking around this room, I have a very close personal relationship with probably half of you. Those have been developed as chair of ATSIC.

Senator JOHNSTON—They are going to get rid of you.

Mr Clark—My fellow commissioners have a similar regard. We offered a situation, a challenge, that was not accepted, where we tried to engage with the state and federal governments. We know there are jurisdictional arguments, like the Pit lands—and we have seen what the government's response and solutions have been there. Our solution was to overcome the jurisdictional argument so that the agencies were not arguing about whose responsibility it was. I would have thought that would be something the government would have embraced in mainstreaming. One aspect of mainstreaming is to make those agencies accountable for what they are responsible for. People are not getting their citizenship rights.

When you talk about ATSIC, I think you are forgetting that we are the supplementary organisation. We come and plug the gaps. In fact, at the end of our time, we are probably

carrying out the primary functions—certainly, in my community and others—when we had a minimal budget. If you look at Family and Community Services, where there is a budget of $68 billion, and the ATSIC total budget was $1 billion, how are we to look at the needs?

I have forgotten to mention that when you are talking about building up relationships, what is Peter Shergold doing heading up Prime Minister and Cabinet? It is a promotion from ex-CEO of ATSIC. What is Mark Sullivan doing heading up FaCS? He has gone from a $1 billion organisation to a $68 billion organisation? He has now been transferred, but it was a promotion. Bill Gray, ex-CEO of ATSIC, heads up the Electoral Commission—what happened? Did they all of a sudden qualify to become good administrators? Were they so bad at dealing with government that they got a promotion or demotion? The only one that did not get a promotion was Pat Turner, the Aboriginal one. You might want to go back and analyse the approach government has had towards ATSIC. The fact is that we were fully embraced while we agreed with government. When you go around the Aboriginal communities, sure, you are going to get criticism, but I see that as a very positive side of ATSIC—and I have been subject to those criticisms. One of the strengths of ATSIC is the fact that we can put issues out there. If there is a rumour of maladministration, negligence, theft or something, we jumped on it. In fact, the government were not quick enough to respond.

Senator CROSSIN—If some people in this room go back and bother to read 10 days of *Hansard*, we have had some concerns about ATSIC based on witnesses telling us that it certainly could have been improved. From memory in this inquiry, we have not had an Indigenous person categorically give evidence that it should be abolished in the way that is planned. Most people—in fact, all people—have implored us to ensure that some form of regional council or assembly is maintained. We have not had one person give us evidence that they support a nationally appointed committee in place of an elected committee. I think the transcripts will show that.

Going back to regional councils and the role that regional councils—assemblies or whatever name might be given to them—play, we have had evidence that there are some very comprehensive and sophisticated models being developed. We have also had evidence that some Indigenous people believe that that will be totally ignored under the new arrangements. We have had evidence that senior bureaucrats and officers in ICCs do not have sufficient understanding and cross-cultural awareness in order to deal with this new regime of mainstreaming—in fact, I think a Sydney ATSIC councillor put to us that she was most upset and surprised when a senior bureaucrat asked her in ignorance: what does a regional councillor do? What experience or evidence have you had with the role out of the ICCs that can confirm or otherwise the problems that will come with mainstreaming?

Mr Clark—As I said, at my first meeting with one of the senior FaCS people about some of these matters that I raised here at the committee, they gave another scenario. It is a bit like the disability services—they go out there. These people do not have an organisation and they do not know where to meet them or how to engage with them. Similarly, they said, 'We will have the same experience. We cannot understand why they are not talking to us.' I said, 'We will not exist. I will not exist as a chair in a number of months.' The fact is that there is this furphy that we are responsible for the outcomes of these programs. One of the merits of government is that they are going to make the mainstream accountable. The mainstream cannot engage with Indigenous people unless Indigenous people have the capacity to get their own situation organised. Therefore, have a representative body at the local level and at state or national level—

but particularly at a local level. Who do you engage with? If you want to partner something you need to have a partner. There will be no partner. This process is wiping out the partner—the Aboriginal affairs.

Senator CROSSIN—So you are saying to us that the success of mainstreaming—

Mr Clark—And its existence.

Senator CROSSIN—will depend on the extent to which regional councils are embraced.

Mr Clark—Yes—the existence of an Aboriginal network; someone to talk to. Without that, there will be complete annihilation.

Senator RIDGEWAY—It is hard to know where to start. If I were to ask anything in relation to the letters you have provided to the committee about questions of transfer of property and other assets and the way in which the elected officials of ATSIC have been treated, it would be this: are you aware of any instances where a decision to transfer property and, more particularly, land and structures to particular Aboriginal organisations has been put in train but is being impeded by the government?

Mr Clark—Yes.

Senator RIDGEWAY—I note that there is a letter of 16 June 2003 that refers to a list which is not attached to the letter.

Mr Clark—I have that list. There is another piece of correspondence within that pile of letters asking the CEO of ATSIS just what he is divesting and whether that is not the role of the board while the board continues. We divested ourselves of Yipirinya shopping centre, which is worth some $30-plus million, but that process has not been completed. I am hearing from people in Alice Springs that it has been obstructed. So there is an attitude within government to resist Aboriginal people getting what is rightfully theirs. I require legal assistance to make a proper legal consideration of these properties. In its one and only meeting last year, which only went for one day and which is when I came back, the board gave consideration to a range of issues and gave the opportunity to the Alice Springs community. Surely the other Aboriginal communities around this country deserve the same opportunity for us to lift the caveats and transfer the properties back to those communities. There are a millions of dollars worth of properties. There is also our housing program. Artworks are disappearing off the walls. We do not have a capacity to meet. I have tried to call a meeting for 17 and 18 February in Melbourne, unfunded and unresourced. There are commissioners I cannot even contact to get to the meeting. We need to make proper legal decisions. My requests for legal assistance to be able to deal with these matters has been refused. As far as I am concerned, the agreement between ATSIC and ATSIS is effectively null and void because it is not operating. They are not cooperating.

Senator RIDGEWAY—Can you explain how the agreement is supposed to operate in relation to such assets as vehicles, for example? I am told—and, if it is true, I believe it is appalling behaviour on the part of the government—that there are vehicles owned and/or administered by the government, and in the possession of the holders of public office, which are currently unregistered, and that petrol cards have been cancelled. Can you confirm that for the committee?

Mr Clark—That is right.

Senator RIDGEWAY—Have you done any assessment on the government's liability exposure for holders of statutory office in that respect?

Mr Clark—No, because I do not have that capacity. I am receiving no advice and I get resistance to any request. You can see that resistance by the correspondence I have tabled. We have another ridiculous situation whereby the media talk about the salary and so-called remunerations I receive, but the fact is I cannot fully access those remunerations. I cannot get accommodation in Melbourne or Canberra to attend my office. I do not get any travel allowance.

Senator RIDGEWAY—But we essentially have the holders of statutory office driving around in unregistered vehicles because of the government's intransigence in carrying out their obligations.

Mr Clark—That is right.

Senator RIDGEWAY—Do you know of any other group of public servants or other groups in society that are treated that way?

Mr Clark—Certainly not. Only an Aboriginal commission would be treated like this. You would think that any other commission would be treated with some decency. I will give you another example. I now have two vehicles. One of them is the treaty vehicle I drove, and now I have a new replacement vehicle. I have notified the system on two occasions that that vehicle is parked in my yard. The fact is that it has been costing ATSIS $80 a day. It has been sitting there for six weeks. Yet I am being threatened about exceeding the $1,000 allocation I receive as chairman of ATSIC when I ring up to seek advice. I cannot attend my office, and I do not have telecommunications provided to me as the chairman of ATSIC, so how am I to monitor things? When you see, from the correspondence, the resistance to me trying to conduct business, you will see that we commissioners are all very vulnerable in holding up our statutory responsibilities. You are right: there is a commissioner with an unregistered vehicle. That is the other extreme.

Mr Foley—No phones.

Mr Clark—There are no phones. This is absolute madness. Isn't this government supposed to have a duty of care—a responsibility—in relation to how they treat us? They might not like us, they might want to get rid of us, but the fact is that we are duly constituted, legally effective and operating without the resources. I believe that what this minister is doing to ATSIC and representatives of Aboriginal people is criminal.

Mr Foley—I spoke to Pat Watson, the CEO of ATSIS, about what arrangements had been made to pick up our chairperson from the airport. I was quite casually told that there was no arrangement, they were not there to do anything for ATSIC or the commissioners, and they were public servants who were at the direction of the minister. I ended up telling Pat Watson that he should remove the Aboriginal art from his office and put a photo of the minister on his desk. There is absolutely no evidence of any support for any of the commissioners around the

country—to the point where our chairperson comes here and is not supported properly in terms of the statutory office he holds.

Regarding the role of regional councils: we have a network of regional councils in all communities around Australia that have been elected to advocate on behalf of their communities. That network is there because of the goodwill of Aboriginal people and their commitment to their communities. They put their hand up to be elected to do that. What have the councils and the board and chairman Clark provided for the governments? We have framework agreements with every state and territory government. That is absolutely unheard of in public administration. Blackfellas achieved that. The ATSIC board of commissioners did that because they are looking at a new way of doing public administration for our communities. In some areas, we gave ground in looking at a process whereby the advocacy we provide was going to address our needs properly.

Mainstream agencies have failed us. You can look at your reports from the Productivity Commission. Why have they continually failed in terms of those indicators? Most of those areas were never the responsibility of ATSIC; we asked for that responsibility. Some of the major agencies and departments have failed, and they are looking at putting those programs back to those agencies. You cannot have service delivery organisations trying to deliver policy.

We gave ground. We have achieved far more, and that is why, as I say, I do not believe in and I will not stand to have any more denigration of elected Aboriginal people in terms of what we have done under the regime of ATSIC. We perform with integrity to provide something in public administration in this country that should be delivered across the mainstream. The taxpayers of this country should see the public administration of their money that goes on in this country as disgraceful. Probably one area of public administration that has worked has been ATSIC. We have made our organisations accountable—we have accounted for every cent. It has not been the same for some other agencies and departments, like FaCS. They still pour millions of dollars down holes that are unaccountable. We can account for every cent that has been spent in ATSIC funded programs since our inception. We have had clear audits throughout the process.

Mr Clark—There have been nine clear audits. The only qualified audit was the recent one where ATSIS was the administrator. We could not even get together to meet to legally endorse that audit report. I had to sign off as chairman under duress again not even having seen the report because it was a week overdue because I could not get to Canberra. That is the type of administration that is occurring at the moment in Aboriginal affairs.

Mr Foley—This is why we have commissioners with no phones and no vehicles who cannot go around and conduct their business. The Remuneration Tribunal sets these things as entitlements. Our chairperson and I cannot even talk to some of our fellow commissioners because they are not contactable. Why is this? It is not an acceptable standard; it is not applied to any other statutory office holder in this country. Those matters will be reported—

Mr Clark—The CEO of ATSIS was quoted as saying that criminals were running Aboriginal organisations. Where are the criminals?

Mr Foley—Charge them.

Mr Clark—Who is being charged? I have been calling for people to be charged for two or three years. I am on the public record as saying, 'If there is corruption, let's do something about it.' I called on the government to react. Where are the criminals running these organisations? Why aren't they charged? If they are dipping into the public purse, why aren't they charged? I do not see any.

Senator SCULLION—Mr Clark, I would like to ask you your view on consultation. You have been very vocal over time and you have just made a statement that reflects your concern, particularly with how we are going to contact people at a local, grassroots level when ATSIC is removed. I put it to you that in my experience with communities—and you know what that is; it started well before my time in parliament—and perhaps it is only in the context of where I come from in the Northern Territory, frankly the last place you would go to consult would be ATSIC. We talk to the traditional owners, the land council and the local community councils or, if it is a specific issue, the AMSs or some of the community consultative groups. That is quite frank. That is basically how you do business if you are in industry or government.

I understand that there are some issues and perhaps nationally that is not case. But, in terms of locally doing it, why do you have a problem with suddenly getting rid of a gatekeeper? The funding will go directly to the communities—directly to these people—and we will now be asking them directly instead of going to the gatekeeper and saying, 'I've got to ask you what you say.' I still have some problems with the land councils with that and so do the communities. Those communities have consultation processes and we have asked the regional councils to provide us with advice on the very best consultative processes that we can employ. Why isn't getting rid of the gatekeeper, taking the funds straight out of the closest tier so that we can ensure the best benefits from those funds and we can have an unfiltered understanding of the views of those local communities at the grassroots level going to work better?

Mr Clark—I think you are living in fairyland. How is it that we are the gatekeepers? Why can't you talk to ATSIC? Can you explain that?

Senator SCULLION—It is not that I do not; it is just that there is no need. The consultative processes in place at the moment are already there at the local level.

Mr Clark—You say, 'Why would you want to engage with ATSIC?' Why wouldn't you want to engage with ATSIC? You know a lot of the ATSIC representatives in the Territory. Don't you talk to them? Don't you respect them? Don't you accept their advice? Don't you accept that they are duly elected like yourself? What is your problem with them?

Senator SCULLION—That is not the issue. There are better consultative mechanisms closer to the communities that can give me better advice.

Mr Clark—Is that just a personal observation?

Senator SCULLION—The commissioner for the Northern Territory only gets his advice at a community level anyway. I am asking why I can't seek that advice.

Mr Clark—What is your bias based on?

Senator SCULLION—There is no bias. I am saying that is how business is currently done. We talk to the community councils. We talk to the land councils. We accept their legitimacy. I can go to the commissioner in the Northern Territory, and he gives me advice on some things, but most of the advice in terms of the processes and programs at the community level come from the community.

Mr Clark—Senator Scullion, we do not have enough time to discuss how you treat Aboriginal peoples in the Territory. You only have to go to the grassy knoll out the back of the Casuarina shopping centre to see how Aboriginal people are moved on when they try to sit under a shady tree. Where are most of the Aboriginals living in Darwin? Down in the long grass, mate! Who is advocating on their behalf? Have they got a representative? Who puts their issues to you? Who is protecting their interests when they are moved on? Are you out there with a big stick saying, 'How about a bit of fairness for these people'?

Senator SCULLION—But when we want to talk to someone about them we go back to the communities where they come from, and they are being engaged at their local level.

Mr Clark—So you go back to their communities?

Senator SCULLION—That is where they come from. The Northern Territory government speaks to those community councils and those issues are being dealt with.

Mr Clark—You're doing a great job in the Territory, mate! I'll give you the tip.

Senator SCULLION—The question I am asking is: why does the advice that comes straight from the grassroots level, that you have advised that we should take, somehow get filtered out?

Mr Clark—Where does the regional councillor come from? He is elected from those communities. The fact is that you do not want to accept the structure and you do not want to accept that they may be asking some of the more difficult questions. Usually they are the people that have some capacity to engage and have some knowledge. That is why they are elected. Who do you think gets elected on these regional councils? Dills? Idiots or somebody? They are normally the community leaders. I cannot see why you are so negative towards these leaders. They are fully mandated by those communities. They come from those communities.

CHAIR—Senator Scullion, you have made your point.

Mr Foley—Can I just make a quick response. That is where part of the problem lies, when someone else decides: 'This is an issue and this is where we are going to go and deal with it.' We have an example with the ICCs in Sydney at the moment. Instead of having an arrangement where we have an Indigenous Coordination Centre dealing with our whole region, we now have an administration creating special ICC managers to deal with the likes of Redfern and La Perouse. What about the rest of the community? There are problems once you start having a process where someone is going to make the decision: 'This is going to be the priority. We'll go down and talk to this mob.'

This was the strength of ATSIC in terms of the regional councils and those processes where we negotiated Imparja—it was about making governments start cooperating and coordinating

their planning mechanisms and start looking at getting the states and Commonwealth to coordinate the delivery of services. It was about having the needs of those communities prioritised and identified by the likes of some proper planning process that was acknowledged. Our regional council plans were statutory planning tools that could be used by all levels of government. The identification of needs was done through those mechanisms and those community and regional plans, rather than having someone in administration or politics saying, 'We'll make this a priority so we'll slip down and have a talk to this mob at the exclusion of somebody else.' That was the strength of it and that is why you need those planning rules.

We keep getting told about the separation of powers and that you cannot have service providers making policy as it is a conflict of interest. We got told that by the CEO of ATSIC when we were looking at the separation of powers. But the government cannot turn around and say, 'It's not okay for Aboriginal people to do it in ATSIC but we'll do it with our mainstream department.' There is no accountability and there is no commitment to some proper outcomes on the ground because you have someone else deciding: 'This community is going to be treated differently to this one over here.' That is why the mechanisms that we employed in our statutory roles with ATSIC and with our regional planning role were so strong. We negotiated where there would be partnerships and we were working on making sure that they were linked to outcomes, much like what government policy is now. But that had its genesis in ATSIC. That was a part of what we did and the way we were looking at development policy.

Mr Clark—That is one of the reasons why an ATSIC structure needs to remain. We are democratically elected. You are sending troops overseas to defend democracy, mate. We are democratic. You might not like the people who are elected, they might not like you either, but the fact is that that has been the experience. You go around and shop for an opinion so that somebody agrees with you. With ATSIC, you get the opinion of the duly-elected Aboriginal person. That is the strength of ATSIC: they are democratically elected and fully mandated.

Mr Foley—That is connected to communities and, through their regional planning, we have community and regional plans that can be planning tools for all levels of government. It is totally transparent.

Senator NETTLE—I want to ask you about the letters you have tabled in relation to your incapacity to access legal advice. Can you tell us a bit more about that? What is happening? Are you able to access any legal advice? Are those bills getting paid? Who do you think should be paying those? What do you think is the proper process for those to be paid? Do you know of anybody else in a similar circumstance who has not been able to access legal advice to tell them about their capacity to carry out their jobs?

Mr Clark—I do not have a capacity to visit regional councils anymore, and no doubt they would have stories of their own to tell. You would probably be best placed to do that. It highlights the ATSIS and ATSIC agreement. I wanted to know legal opinions about whether it is void or whether it has any currency. I may want to look at the housing program within ATSIC. It is a very successful. Where can we park that? Can we put that in a trust situation? How do we divest properties back to Aboriginal communities so that it is safe and secure? How do we secure the artwork of Aboriginals that has been accumulated for 30 years? How do we secure that property on behalf of Aboriginal people? How do we legally put that in process? All these technical legal questions require legal advice. The man has admitted conflict of interest. They

cannot give me the independent advice I choose to get. On some occasions they have agreed to pay for some of this advice, I have to say. But when I asked, in this current letter, for advice in relation to the assets, there was a leaked media report suggesting that we are going to sell off the artworks to pay for a legal challenge. That is totally outrageous, totally incorrect—and, I reckon, vicious. It was a vicious leak, obviously from the department of ATSIS.

Senator NETTLE—Did you ever get an answer on the status of the agreement between ATSIC and ATSIS?

Mr Clark—No. We think that it is possibly illegal. Given that they cannot now provide me with independent legal advice, it is probably in breach.

CHAIR—Mr Clark and Commissioner Foley, our time, as always, runs out. I think there may be plenty of questions senators want to put to you. If you are prepared to take them on notice and if the evidence has stimulated further questions, we will give them to the secretariat. If you need some support in getting them back to us, let us know.

Mr Clark—Can that work in reverse? Can we provide some more documentation if we come across it?

CHAIR—Absolutely.

Mr Clark—We have a real communication problem amongst the councils in the structure. We believe there are those situations out there that we should bring to your attention if you are doing a thorough examination. Can I thank you very much for your tolerance. We did get a bit heated, I understand, but you can imagine that we are very passionate and emotional about this process. We have committed our lives to this struggle. This is something that should not be taken lightly.

I think there is enough tragedy in Aboriginal communities. We have always been of the opinion that we put ourselves up—we are happy to take the bullets and the spears and, if the criticism is just, we are happy to accept that. But we are not going to take discrimination and unlawful acts by this government, which is prepared to use a false mandate. This government has no mandate. They did not put it to the Australian people, when they went to the election, that they wanted to totally annihilate Aboriginal affairs in this country. We had a pending situation of a review that in fact suggested that ATSIC should be strengthened. Maybe it is because of the crisis in the political system that we have at the moment, where we do not have an effective opposition as such, that this government has the capacity to annihilate us. We would hope that, in your deliberations, you could find the arguments so that Aboriginal people can have a duly and democratically elected voice in this country to be able to advocate what it is that we believe is important, not what somebody else believes, and so they do not have to go and opinion shop to get the right voice. We will give it to you hard and straight. We hope that that has been one of the strengths that ATSIC can be remembered for.

CHAIR—Thank you, Mr Clark.

Mr Foley—I have a quick response to Senator Nettle. We have a statutory obligation to provide proper advice. Our communities are asking for that. They are asking us those questions, and we are not in a position to do it. If it is the intent of government to wear us down until 1 July

comes so that they can make their own decisions about it then it is their own dereliction of duty. In closing, Madam Chair, I would like to thank you for the opportunity of being here today and ask you to pass on our regards to our minister, Minister Vanstone, and ask her to forward some of those cardboard cut-outs so we can place them in some of these ATSIS offices when we remove our artwork.

CHAIR—Thank you, Commissioner Foley.

[10.15 a.m.]

CARTERS, Mr Graham, Group Manager Working Age Policy, Department of Employment and Workplace Relations

CORRELL, Mr Robert John, Deputy Secretary Workforce Participation, Department of Employment and Workplace Relations

HARVEY, Mr Robert George, Group Manager Community Development Employment Project, Department of Employment and Workplace Relations

CHAIR—Good morning, gentlemen. As experienced witnesses, I know you will not need information about in camera evidence. If you wish to give that at any time, just ask the committee. You may care to make an opening statement before we get into discussion with senators.

Mr Correll—I will make a brief opening comment to set the scene. DEWR today manage a wide range of programs and services, both mainstream and Indigenous specific, to support Indigenous employment, community activities and business development. The mainstream programs include Job Network, Work for the Dole, New Enterprise Incentive Scheme, Transition to Work personal support program and a range of other programs. In the area of Indigenous specific programs we are responsible for the Indigenous Employment Program, which includes elements like STEP; the CDEP incentive; the cadetship program; Indigenous employment centres; wage assistance; Indigenous capital assistance; and Indigenous self help programs. We also manage an Indigenous small business fund. Since July 2004, under the new arrangements introduced for Indigenous affairs, DEWR have also taken responsibility for CDEP and the business development program; and Indigenous Business Australia has transferred into the DEWR portfolio.

The strongest results in employment outcomes at the present stage come from the mainstream Job Network service. In 2003-04 there were 22,000 job placements for Indigenous Australians, representing 4.2 per cent of all job placements achieved through Job Network services, which was a record high at that time for Job Network. For the year to date this figure is already close to being achieved. We expect to achieve around 36,000 job placements. That will mean that a little over five per cent of all job placements will be for Indigenous Australians through the Job Network services. This represents a very dramatic performance improvement in job placement outcomes for Indigenous Australians.

In addition, in 2003-04 there were around 11,000 commencements in the Indigenous Employment Program, and there was the introduction of Indigenous employment centres. The Indigenous specific programs are also improving performance strongly, in terms of the outcomes being achieved. We believe that the transfer of the CDEP and the Business Development Program from ATSIS provides very great opportunities to be able to connect both the mainstream and Indigenous programs more effectively to continue to build on the outcomes being achieved for Indigenous Australians.

Senator NETTLE—I wanted to ask some questions about the transfer of staff, particularly the senior public relations officers, from ATSIC to DEWR. I understand that there were five in ATSIC. Is it right that only one of those has transferred to DEWR and that they have been involved in other programs until this week? What is the status of senior staff who have been transferred? What level of Indigenous senior staff exist in DEWR dealing with these issues?

In evidence before the committee in our hearings this week we have heard that staff who have been transferred from ATSIC to DEWR have appeared at their new job and on their desk found proposals relating to the abolition of CDEP. I wondered if you wanted to comment on that. The other issue that was raised with us this week was about the capacity for CDEP organisations to be able to utilise self-generated income for the purpose of maintaining long-term jobs for people in their community and that they have not had the capacity to do that.

Mr Correll—I will address those in turn. Firstly, in terms of the transfer of staff from ATSIS to DEWR, the transfer of those staff was very much handled on the basis of staff following function. There was a process involved in identifying the functions that transferred to the various agencies and then staffing followed those functions. I would need to take on notice questions about specific numbers at different levels that transferred across. But essentially the transfer occurred consistent with the identification of staff performing those functions that transferred to DEWR and then those staff moved across. That was consistent with the overall methodology used for the transfer of functions—not only to DEWR but to other agencies—from ATSIS. In relation to the second point, in which there was reference to CDEP being abolished, we have no such knowledge of any such reference or proposition, and to my knowledge such a proposition is not in contemplation.

Senator NETTLE—I would appreciate it if you could get back to us on the specifics about senior Indigenous people employed as staff in DEWR and also the senior public relations officers. I understand that there were five of them in ATSIC and that only one of them was transferred to DEWR and has been working on a project that is not on Indigenous issues. It would be appreciated if you could get back to us about that.

Mr Correll—That is fine. Can you remind me of your third point?

Senator NETTLE—It was about self-generating income brought out of CDEP programs and the capacity for them to use that income for ongoing, sustainable projects in their community.

Mr Correll—I am assuming that is implying where there may be business operations within a CDEP operation in a community and where that income is being generated that that can then be applied to other activities within the community.

Senator NETTLE—Or the ongoing maintenance of those employment opportunities. If CDEP has a purpose of transferring people into long-term job opportunities, and if, through a business component of the CDEP program, they were able to generate income, but then the people on that program wanted to be able to continue that as ongoing employment rather than short-term projects, what would be their capacity to do that through CDEP as it currently exists?

Mr Harvey—Basically if CDEP organisations are generating income, they can use that income for any activity they would like to put in place, as long as they are advising us and that

income is accountable. Using it to sustain other activities or employment is up to them. The important thing is that we know what that level of income is and that that income is there.

Senator NETTLE—I appreciate you saying that, because that is not what we have heard. We have heard that people have had a requirement to put that back into what they have called consolidated revenue. I do not know the technicality of how the accounting is organised, but certainly they have put forward to us that they have not had that capacity to invest that into ongoing, long-term employment for their communities. You say that is not the case.

Mr Correll—With the transfer of the CDEP program to the department's responsibility from July last year, the initial emphasis for the first few months was ensuring smooth transition. We are now increasingly focusing on the operation of the CDEP program and future directions for the program, and that is an area which will get increasingly close examination over the coming months. So we would certainly want to embrace an issue like that in any examination of the program and future directions.

Senator NETTLE—So is it your intention to ensure that those committees can direct any self-generated income through CDEP in a way which they see fit for ongoing employment opportunities in their communities?

Mr Correll—I think at this stage we would not have a fundamental intention in terms of CDEP directions. The government has not made decisions at this point about CDEP directions, but what we would want to do would be to explore the whole operation of CDEP and how its success to date can be built on so that the program works in the best possible way to maximise economic independence for Indigenous Australians.

Mr Harvey—Adding to the point I made earlier, we do not believe that since the program has come across from DEWR there has been any of this situation that you just described. That situation may have occurred prior to the transfer, but we in DEWR are not aware of that and that is not the approach that we are adopting.

Senator NETTLE—In the comments that you made, Mr Correll, you stated that the current status is that they can use the self-generated income as a way to provide employment. Mr Harvey said that, and then, Mr Correll, you said that that is all under review and that you may change that in the future. I am just asking about that because firstly we heard about difficulties in the transfer and then you raised additional issues of uncertainty for the communities about the continued operation of their projects.

Mr Correll—No. The future direction for CDEP is something that the government would want to explore and the department would want to seek feedback on from communities. So there is no question of any directions emerging in that area without full input from and dialogue with the communities, and there is no question that we are looking to make any change to the particular area that you raised and that Mr Harvey has commented on. There is no planned change or intentions for change in that area. The whole issue of CDEP for the future is a question of ensuring that it works in the best possible way. That is something we are going to be looking at in the future, but there is no intention to change that element that you referred to.

Senator JOHNSTON—Mr Correll, gentlemen, thank you for coming along. Your portfolio is largely about statistics and performance measurement in terms of economic indicators. What I want to know—and what I think a lot of senators on this committee would want to know—is how we are going to make determinations and how you can assist us in making determinations on the success of your efforts with Indigenous people in Australia. In other words, what have you got in mind to benchmark the situation as it was two or three years ago and to look at it now so that, in three years time, when you sit here or in estimates, you can cop questions from us as to how we can know things are better—because that is what is going to happen, I can assure you? What processes and what mechanisms have you got in the forefront of your mind so that we can judge how well this transition has achieved the desired outcomes that we all want?

Mr Correll—The essential bottom lines here go to questions of labour force participation rates and employment rates for Indigenous Australians. We would see those as the critical benchmark measures to be looking at lifting—both labour force participation rates and employment rates. There are some issues of how one can in fact measure those in a current way that we are looking at at the present stage to improve that position, but the key yardsticks we will be looking at are those two critical measures: labour force participation and employment rates for working age Indigenous Australians.

Senator JOHNSTON—I was worried you were going to say that because, you see, Indigenous affairs is not about simple numbers. It is about training; it is about the interaction and success of a community. It is not about money and numbers simply being the answer. What I want to suggest to you—and I hope that I find some fertile ground with this—is that the numbers must be just the first pass. You have got to get down into on-the-ground community situations to see whether the jobs are worth while—there is no good having a job down as a statistic if it just means you turn up, sit down, do nothing and then go and get the dough.

What Indigenous affairs means under your umbrella is that you have to treat it completely differently from how you have been used to treating it. You have to actually drill down and see that, if you have job statistics that look good, the jobs are there and are good. You have to get out there and make sure that you are talking to the people that you are measuring by numbers. That is something that I want—or someone like me wants—to hear in two and three years time about the success of this transition. I am hoping you have some mechanisms and I am hoping you have some capacity to do things in a bit more detail, a bit more laterally, with respect to what has been happening.

Mr Correll—There is an area we would be expecting to see develop strongly: the department has staff in all the Indigenous coordination centres that have been established. Indeed, we are building within those Indigenous coordination centres a staff capability which we call solution brokering. Basically, that is about having a full knowledge and awareness of the program and service tools and resources available in both Indigenous specific and mainstream programs and resources so that those resources can be applied in a highly flexible way to meet the particular agreed service circumstances for a particular community. We would be expecting that to be reflected through the shared responsibility agreement that is developed with a particular community. That is the capability that we are trying to build at a localised level.

We see that all communities across Australia are going to be in different circumstances—remote circumstances, regional circumstances and urban circumstances. Where we have strong

local labour markets then what we want to try to see is people from the local community moving into real, tangible jobs in those labour markets. Where there are circumstances where labour markets are limited—and we believe that there are no circumstances where labour markets are non-existent—we would be aiming to build the capacity of the community to ultimately move into those job opportunities that are there. That will be through training activities. That is where a program such as CDEP—and other program tools that are available—and the tool kit to support it, are vital, as are those job opportunities that are there at the local level increasingly being able to be taken up by Indigenous people. Where there are not job opportunities there, we would be looking at using those tools and resources to support active participation by members of the community in community activities that are fair dinkum activities that are reflecting the overall circumstances and needs of the local community and that do not represent sit-down money.

Senator JOHNSTON—One classic example, and something that I think is going to be a benchmark for this or any other Indigenous Senate committee, is Palm Island.

CHAIR—Thank you, Senator Johnston.

Senator JOHNSTON—Those people require a job—a good job. I am hoping that your methodology is going to yield some concepts, some capacities, to give them some sort of decent job. I think Palm Island is a very good example of something the committee would want to look at and understand. I have been to Palm Island. All those people want is a good job. I am hoping you can find them something to do.

CHAIR—Mr Harvey, this question is on notice because we are running out of time. Could we get from your department what the job market and responsibilities of the department on Palm Island are, as an example? I do not want an answer now; could we get that for the committee?

Mr Harvey—I want to say very quickly that it is a whole-of-government approach on Palm Island.

CHAIR—Yes. I am interested in particular in Mr Correll's comments that you do not believe there is anywhere with no job market. We would like to see exactly what you have on Palm Island. Senator Carr, I believe you have a series of questions.

Senator CARR—I have indeed. The department has received an influx of new personnel from the old administrative structures. How many of those were Indigenous?

Mr Harvey—Two hundred and fifty-four staff transferred from ATSIC to the department; 213 of those are still employed in the department. Of those who transferred, we did not have a list of those who self-identified as Indigenous people, but as at 30 June we had 92 employees who self-identified as Indigenous. As at 25 January, there are now 167 employees who self-identify as Indigenous—an increase of 75.

Senator CARR—Can you give me an indication: at what levels do they break down? Has there been an increase in the number of senior executive people?

Mr Harvey—Yes, there has been an increase in the level of senior executives, but I do not have a break down across all—

Senator CARR—Could you do it by broad category—

Mr Harvey—Okay.

Senator CARR—from the senior executive service to ELs, if that is what they are called, the executive assistants and the lower ranks—just where these people are working.

Mr Correll—We would have to take that detail on notice.

CHAIR—Can you also provide that information on pre-existing staff in your department—if there has been such an influx, we would like to see what was already there at what level—and then show clearly the difference in what has been augmented?

Senator CARR—Obviously I may come back to this at estimates; in fact, I think you can count on it. I just want to compare what you are telling me with what is in the *State of the service report*, because the *State of the service report* is telling us that the number of Indigenous people employed in the Australian Public Service is actually falling, in both absolute and percentage terms. This of course has been accentuated in the last year. That is not your experience in your department—is that what you are telling me?

Mr Harvey—That is correct.

Senator CARR—Can you tell me who undertook the review of the Indigenous Employment Program?

Mr Correll—It was undertaken through the program evaluation area of the department, which managed a two-stage review, an evaluation of the Indigenous Employment Program.

Senator CARR—So it was an internal review?

Mr Correll—Yes. Internal, but quite separate from the actual program area itself.

Senator CROSSIN—Can we have a copy of the outcome of that review?

Senator CARR—Is that a published document?

Mr Correll—I believe that the document has been published. Subject to that being accurate, there would be no difficulty in the release of that document.

Senator CARR—I noticed on page 44 of your submission that you indicate to us that it is estimated that the various departmental programs, according to this review, are responsible for between 2,400 and 4,300 new jobs for Indigenous job seekers per annum. Have I read that correctly? Those are your present achievement rates?

Mr Correll—Yes, that was an element that was picked up, as I recall, as part of the Indigenous Employment Program evaluation finding.

Senator CARR—You go on to say that the estimate is that 3,400 additional jobs are required each year to maintain the status quo and that 10,000 jobs each year are required to achieve employment equity by 2011. What are your current targets for job placements for Indigenous people?

Mr Correll—I think the reference to the 10,000 jobs comes from analysis that has been undertaken by CAEPR at the Australian National University. Basically, we do not have a target as such; we are attempting to maximise the employment outcomes that are being achieved. One of the key things that the Indigenous Employment Program evaluation highlighted was the need to utilise the mainstream programs like Job Network more strongly to achieve those results. As I flagged in my opening statement, we have seen a quite dramatic growth in employment outcomes being achieved. So what we will strive to do is to maximise those outcomes and, in that way, meet that sort of a growth figure and, desirably, exceed that figure, so that we can ultimately be bringing the total employment rates up significantly for Indigenous Australians.

Senator CARR—Do you have targets for other areas in your programs?

Mr Correll—In areas like the Indigenous Employment Program we have commencement figures that we attempt to achieve, and that is a normal part of the program management function to ensure that we are utilising the resource to the fullest extent possible.

Senator CARR—And you have targets as well for the general employment programs?

Mr Correll—For the Job Network mainstream employment program, because it does not have targets as such it is a program that is very much performance-outcome focused and uses a very strong and visible performance rating system with providers with an ongoing regime of reallocating business to higher performing providers. The history of that program has been that performance has just been accelerating, and that is happening at present.

Senator CARR—I am struck by these figures in your submission. I take it you regard them as credible, otherwise you would not have put them in the submission, would you?

Mr Correll—No, we would not have.

Senator CARR—I would expect that. That is a logical course of action. I am just saying, you say in your submission that you have research that says 10,000 positions are required to be created to address the question of employment equity by 2011, but you have no targets. I am wondering how you can reconcile those two propositions.

Mr Correll—Noting that the reference in the department's paper referred to 10,000 each year to achieve employment equity by 2011, what the department is aiming to do, as I said earlier, is to absolutely maximise the rates being achieved. This year, for example, through Job Network we are looking at an increase in employment placements from around 22,000 to around 36,000. I think if we had set a target at the end of the last financial year, no-one would have expected to have achieved a result like 36,000, which is a massive performance increase.

Senator CARR—I will have a look at that. I am just interested to know. I take it that the department's objective is to ensure employment equity. That is your program objective?

Mr Correll—Yes, as measured through improving employment rates and labour force participation rates, as I mentioned earlier, which are the two key indicators that we hold ourselves publicly accountable through our—

Senator CARR—Of course, and I would expect nothing less from the Australian Public Service to say that they are going to maximise employment in the department of employment. You are hardly going to come forward and tell us that you are going to minimise it. However, it does strike me as a bit woolly to tell us that the objective here is just to 'increase the numbers to the best of our ability'. You are normally much more precise in your estimates to this parliament. And it strikes me that it is a bit similar to the claims that you want to cooperate more with other agencies of government. It invariably follows that one asks: 'Why haven't you been doing that? Why has it suddenly become an issue? Why is this not standard practice?'

Mr Harvey—We have had targets. It is very difficult to set targets in this area, but, broadly, what we have been trying to do is make sure that on the Job Network register, for example, we are placing as many Indigenous people as their share represents. In a number of regions where we have started to adopt a whole-of-government or whole-of-program approach we are starting to see placements which are exceeding their share of Job Network placements. I think what we are building up to, as Mr Correll said, is a comprehensive across-the-board approach to the setting of targets. We are six months into running with the new responsibilities in terms of a whole range of activities, but particularly the CDEP program, and we are progressing towards that. Our longer term target is to achieve equity, and we would hope we will achieve that in the longer term. As Mr Correll said, we are already achieving significant outcomes under the Indigenous Employment Program and overall under our programs. So we are working towards that.

Senator CARR—So we have to find an extra how many thousand jobs a year to reach employment equity by 2011?

Mr Harvey—We are looking at about 6,500 a year.

Senator CARR—An additional 6,500 a year?

Mr Harvey—Yes.

Senator CARR—Will you be able to do that?

Mr Harvey—We are always optimistic about what we can achieve.

Senator CARR—I am just trying to encourage you to set a target, that is all. That is the point.

Senator JOHNSTON—It depends on the state of the economy.

Senator CARR—That is the issue. There is that fundamental question about equity—about whether the prosperity is actually distributed equally across the economy. You have had an

instruction, haven't you, from central agencies that all Indigenous funded program grants should adopt a purchaser-provider model? Is that true?

Mr Correll—No, we have not received such an instruction.

Senator CARR—Mr Ruddock did not write to you in 2003 with that advice?

Mr Correll—If you can give me a specific reference, we will check it.

Senator CARR—He wrote to the Prime Minister on 7 April to tell the Prime Minister that that was what he was doing. Did he do it?

Mr Correll—I would need to check.

Senator CARR—Would you like to take that on notice?

Mr Correll—We will take that on notice.

Senator CARR—If there was a decision taken already by the government that all Indigenous-specific grants should adopt a purchaser-provider model, you would be able to tell me that, wouldn't you?

Mr Correll—Yes, I believe so, and I do not have a knowledge that there is a decision that all Indigenous program grants would adopt a purchaser-provider model.

Senator CARR—I have a document here to the Prime Minister dated 7 April signed by Mr Ruddock.

Senator JOHNSTON—What year?

Senator CARR—This was 7 April 2003. The decision had already been taken.

Mr Correll—As I have flagged, we will take on notice whether there has been any instruction coming through, but I am not aware of any such instruction.

Senator CARR—Thank you. What follows from my inquiry on that is that now there seem to be concerns that the CDEP, which I think you have rightly acknowledged is one of the most successful Indigenous employment programs in this country—independently reviewed, repeatedly we are told it works really well—will be losing its development role. In fact, if it is subject to a purchaser-provider model framework, it will not be able to maintain a development role, will it?

Mr Correll—There are two points. You have flagged concerns. There has been no suggestion of a loss of a development role for CDEP that I am aware of.

Senator CARR—If you read the transmissions of this inquiry you will discover that there is considerable concern being expressed in evidence to this committee. To what extent do you regard the CDEP as purely an employment program?

Mr Correll—We do not regard the CDEP as purely an employment program. CDEP represents a combination of three distinct elements. There is an employment element, there is a community activity element and there is an economic development element as well. We would see that every CDEP project across Australia would represent a unique mix of those three elements.

Senator CARR—What weight would you give to the community development side of the CDEP?

Mr Correll—Again, it would reflect that notion of a unique mix of those three elements. The employment element one would expect would take on a stronger role where there are strong local labour markets and strong local job opportunities. Potentially, the community activity element would take on a stronger role where there were fewer local labour market opportunities, particularly in remote parts of Australia. The business development area would be always attempting to focus on identifying opportunities for businesses to emerge from CDEP. So we do not perceive CDEP just to be an employment program. However, it is important that CDEP does not become perceived to be a destination rather than a transition where there are employment opportunities available.

Senator CARR—So this is a situation where you do not see it as an employment program but you do not want it to be seen as a community development program or solely as a community development program. Would it be more expensive for the state—that is, the Commonwealth—if citizens chose not to participate in CDEP but went directly onto employment benefits?

Mr Correll—If one considers the CDEP program then a significant component—my colleagues might assist me, but I think it is in the order of around 80 per cent—of the costs of that program relate to the equivalent of income support payments. The remaining elements of that program relate to on-costs associated with managing services and other top-up wage components over and above the income support payment. So it is fair to say that the total cost of CDEP is higher than purely the income support element of it.

Senator CARR—But would it not be more expensive to the Commonwealth if citizens chose to participate directly—that is, register for unemployment, go on the dole?

Mr Correll—I do not know the answer to that question whether it would be more expensive to the Commonwealth for that to occur but I do not think there is any question that participating on CDEP, where that participation is genuine active engagement and active participation, would appear to be a better option than being on passive welfare.

Senator CARR—That is an argument that has been put to me. What progress has been made for the removal of exemptions from the various activity tests for persons who live in remote areas?

Mr Carters—We have been doing significant work in the Northern Territory looking at those communities that are interested in lifting the remote areas exemptions in their location. We have worked very closely with the other government agencies, including Centrelink, to look at how best that can be achieved. From a DEWR—

Senator CROSSIN—Which communities in the Territory would they be?

Mr Carters—Yirrkala is one that we have had the most progress with. We have achieved it there and we have a number of people signed up to individual agreements linked into that as well. We are working in the Tiwi Islands, and there are a couple of other communities which I cannot give you the exact details of, but we can certainly do that on notice.

Senator CROSSIN—Yes, thank you.

Mr Carters—The progress there is slow, but we are very committed to it and the communities are very committed to it. There is certainly a whole-of-government interest in achieving it. We are also focusing on the shared responsibility agreement concept, and that is being introduced across the country and it will impact on the speed at which the remote exemptions are lifted.

Senator CARR—I appreciate your answer. I am interested to know whether or not there is a proposal to have legislative amendments to remove the exemptions.

Mr Carters—There is not that proposal that I am aware of.

Senator CARR—There is not.

Mr Carters—No. It is an administrative lifting rather than a legislative lifting.

Senator CARR—So you think legislation is not necessary.

CHAIR—That could well be an opinion, Senator Carr.

Senator CARR—That is a question of opinion.

CHAIR—But he is a public servant.

Senator CARR—We must have some policy advice on this. Isn't a legislative amendment necessary to remove those exemptions?

Mr Carters—Where a community supports the approach to lift the remote area exemption within that community and both the community and individuals sign up to that then we do not need to change legislation.

Senator CARR—But where a community does not agree to it, are you proposing legislative change?

Mr Carters—We do not have that proposition at the moment, no.

Senator CARR—There is nothing before the department at the moment?

Mr Carters—Not for legislative change at this stage, no.

Senator CARR—How do you respond to the characterisation of CDEP as a means of providing more or less permanent but subsidised employment as part of a community development program? Do you have a view about subsidised employment for Indigenous people in regional and, especially, remote areas? Do you agree that in some communities it will not be practical or possible to meet the aim of full-time employment for the majority of people?

Mr Correll—That goes back to the response I provided a little earlier. Each CDEP is very much a unique mix of those three elements I described earlier. In different circumstances it is quite clear that it is not practical in the short term, and in some cases in the medium to longer term, to move people from CDEP into employment opportunities. That can be because of the availability of employment opportunities in the local labour market. It can also be because of factors relating to the capacity and readiness of individuals within the community. That is my position in response to that question.

Having said that, we have looked at areas like the Anangu Pitjantjatjara lands around the South Australia-Northern Territory border and there are jobs there. Through a broad stocktake we have established that there are hundreds of jobs in those communities but, invariably, they are not being filled by local people. Over time one would try to work with the communities and use all the program and resource tools that are available to help build the capacity of those communities to move their local people into those jobs. In some cases that might not happen for a number of years, but that ought to be the way that the programs and tools are used and focused. Where there are not immediate jobs available, the community activities that are there should help in the overall development and capacity building of the community. The community activities that are established through a program like CDEP should fundamentally underpin the aspirations and directions of the community as reflected in the Shared Responsibility Agreement.

Senator CARR—I have before me a copy of a document that purports to be an incoming-government brief, which I am sure you are familiar with. It asserts that there will be changes to CDEP to deliver better development, training and employment outcomes in the integration with mainstream services. It says these will include increasing CDEPs' capacity to move participants to real jobs by expanding the number of Indigenous employment centres—I take it that is policy. How many new centres will there be?

Mr Correll—There is no government decision in relation to an expansion of Indigenous employment centres.

Senator CARR—We do not have any proposals to do that?

Mr Correll—There is no government decision to expand Indigenous Employment Centres.

Senator CARR—It is not policy yet?

Mr Correll—That would be right without a government decision.

Senator CARR—You say that CDEPs will be required to partner with mainstream employment service providers and to compete to provide employment services under the Job Network. Is that the policy?

Mr Correll—There is no policy position in relation to CDEPs that the government has taken at the present stage, apart from continuing the arrangements for CDEPs that have been in place since the program transferred to the department.

Senator CARR—Will CDEP places be made available for community participation through SRAs, shared responsibility agreements, where families and individual obligations and a range of community jobs are to be undertaken? Is that to be the case?

Mr Correll—I can only repeat that there have been no government decisions made in relation to the future arrangements of CDEP.

Senator CARR—This document said that this is drawing upon the forthcoming review of Indigenous employment policy, so I presume that might have been modified after the review was concluded. Is that the case?

Mr Correll—I am not sure what document you are referring to there. I am not privy to the document. All I can do is repeat that the government has made no decisions in relation to any future direction arrangements for CDEP.

Senator CARR—You are giving us a position on behalf of the department, and I appreciate the position you are in. I am reading from the government's documents, which seem to contradict the evidence that you are providing to us. That is why I am trying to get to the bottom of this conundrum. The document then goes on to say that they will be 'progressively requiring activity and participation in exchange for all forms of income support', and there are examples such as requiring parents to bring their children for health checks while receiving parenting payments. The document goes on to say that this would include phasing out remote area exemptions for activity testing through the SRAs. Are you aware of that?

Mr Correll—Again, I can only repeat that I do not know what document you are specifically referring to. There have been no government decisions made in this area.

Senator CARR—You are saying that there are no government decisions on those so that is not the policy?

Mr Correll—Correct, Senator. If no government decisions have been made there is no government policy—

Senator CARR—I have a number of other questions which I will place on notice.

Senator CROSSIN—Did you adopt the ATSIC CDEP policy of March 2004?

Mr Correll—I am aware of the policy document that you are referring to. It is not a case of the department adopting such a policy statement at all. It would be a matter for government to adopt a policy position on CDEP and—

Senator CROSSIN—If you have had CDEP transferred across to DEWR, can you tell this committee whether the government also adopted that ATSIC policy of March 2004 in the process as well? Is that policy guiding your administration of the CDEP now?

Mr Correll—My understanding is that that policy has never been formally adopted but I would want to check my facts and take elements of that on notice to check what may have occurred prior to the program transferring to DEWR.

Senator CROSSIN—You quote from the policy in your submission to us.

Mr Carters—I guess there is a difference between adopting the policy as such and taking note of what is provided in there in commonsense approaches et cetera.

Senator CROSSIN—That is why I am asking whether you have also adopted the policy or whether the government has adopted the policy.

Mr Correll—From a departmental point of view I am not aware that the government has in fact adopted that policy, but we will check that to make sure that that fact is correct.

CHAIR—Will you put your response to that question in writing, Mr Correll, as soon as possible with regard to exactly what the status of that policy is with the department?

Mr Correll—Yes.

Senator CROSSIN—So in administering CDEP, what policy are you operating under?

Mr Correll—Today we operate to the overall CDEP guidelines. They are the driving force to the operation of the program today.

Senator CROSSIN—I understand that ATSIC actually conducted a review of CDEP. It was done through their main CDEP office in Adelaide. I have asked continually for a copy of the review of CDEP that ATSIC had done. Have you ever seen that review?

Mr Correll—This was a review done through the Adelaide office of ATSIC?

Senator CROSSIN—That is right. That was the coordinating base for CDEP.

Mr Harvey—A range of reviews is done across Australia by ATSIC and we have been using those in our state offices in looking at the operation of the program. Have I personally seen that review? No, I have not.

Senator CROSSIN—It was a major review of CDEP, I understand, that was conducted in the last 18 months or two years. Are you aware of it? Could you take it on notice? If such a review

has been conducted and it is possible to give a copy of that to the committee, I would appreciate that.

Mr Correll—We will take it on notice.

Senator CROSSIN—How exactly will the ICCs be established? Let us take, for example, DEWR in Darwin. The main office is in the central business district but the ICC is in Casuarina. Do you envisage that you will have one officer from DEWR located in the ICC who will solely be responsible for Indigenous employment policy and CDEP? How exactly will that physical set-up work?

Mr Correll—Yes, we expect that we will have staff located within Indigenous coordination centres; we do not only expect it, they are there presently, across all Indigenous coordination centres. We are working on building the capability of our staff in the Indigenous coordination centres to take on what we call the solution brokering role, where they are not narrowly focused on managing an individual program, but have an understanding of the full range of programs and services that can be brought to bear to assist in a whole-of-government approach to services with the local community.

Senator CROSSIN—So they will not be specifically responsible for CDEP coordination?

Mr Correll—No, CDEP would be one of the elements in the tool kit of programs and services. But what we are very keen to do through the new ICC arrangements is to be able to bring in other programs and services that have previously not been drawn on and that can work with CDEP to achieve better results for communities. So to be able to achieve that, it means our staff in ICCs must not be narrowly focused on a single program, but must have a capacity to understand a full range of tools and how those program tools can be applied in different circumstances to support the needs of local communities.

Senator CROSSIN—I have two quick questions and lots of other questions, so I intend to take up a lot of your time during the estimates week. There have been a lot of motherhood statements that you have made today that I particularly want to pursue during the estimates week, such as getting feedback from communities. Perhaps you might want to take on notice now how you intend to do that. Have each of you three gentlemen visited a number of rural and remote communities since last July?

Mr Harvey—I was the state manager for our office in Victoria. I visited all of our CDEPs. I also visited all the Indigenous communities across Victoria and was actively involved. All of our state managers have gone across Australia, interacted and participated with a whole range of communities. Part of the responsibility of taking over CDEP was to interact with both staff and communities. We have also spoken with regional councils across Australia. You would also be aware that we have responsibility for two COAG pilots, which are very much on the ground and hands on.

Senator CROSSIN—I am specifically interested in what you three individuals have done and what communities you have been to outside the eastern seaboard.

CHAIR—Senator, can we take that on notice? It would be a simple response if we could get from the three of you where you have been.

Mr Correll—Yes, we can take that on notice. In fact we immediately instituted a program of visits to communities by a number of our senior executive group with the transfer of functions. We would be happy to outline the full array of those visits.

Senator CROSSIN—I would appreciate knowing where each of you have been outside the eastern seaboard. There is a ministerial task force, but I also notice that there is a secretary's gathering that happens every now and then—one of you might want to refresh my memory and tell me its exact name.

Mr Correll—It is referred to specifically in the submission as, I think, the secretary's task force.

Senator CROSSIN—Do you attend those meetings?

Mr Correll—Those meetings are attended by the secretary of the department, Dr Boxall, and I attend the meetings periodically for particular issues.

Senator CROSSIN—How many of those meetings have occurred since last July?

Mr Correll—I would have to take the precise number on notice.

Senator CROSSIN—Can you also take on notice how many meetings Dr Boxall and you have attended since last July?

Mr Correll—Yes.

Senator CARR—I want to clarify a question on notice asked earlier on the issue of the breakdown of the representation of Indigenous employees by classification. I was wondering if you could use the classification that the Public Service Commission uses, which is detailed on page 152 of its last report. At table 8.3 it lists your department as having the third highest level of Indigenous ongoing employment, but it does not give a breakdown of classifications. I am particularly interested in those people who moved across from former organisations. Could you give me a breakdown on where those classifications have moved?

Mr Harvey—Yes.

Mr Correll—Yes, we could do that.

CHAIR—Thank you. We will provide a full list of questions on notice with clarification through the secretariat. If there is any delay in getting those questions back, we would appreciate it if you could let us know. Thank you for your patience.

[11.17 a.m.]

BEAN, Ms Lynn, Acting Deputy Secretary, Arts and Sport, Department of Communications, Information Technology and the Arts

BUETTEL, Mr Rohan, General Manager Public Broadcasting, Department of Communications, Information Technology and the Arts

NICHOLAS, Mr Frank, Chief Operating Officer Corporate and Business, Department of Communications, Information Technology and the Arts

CHAIR—I welcome witnesses from the Department of Communications, Information Technology and the Arts. As experienced witnesses at these hearings you are aware of the in camera provisions and the provisions regarding the rights of public servants appearing before these committees so I will not read out all that stuff. As you know you may make an opening statement or outline the focus of your discussion and then we will go into discussion with the senators. Do either of you wish to make an opening statement?

Ms Bean—Senator, there is just one point of clarification that I need to make. At the bottom of page 3 of the department's submission there is a reference to the number of radio services which receive the National Indigenous Radio Service. Following further consultation with NIRS the department understands that the NIRS program is received by 122 Indigenous radio services but NIRS cannot confirm the number of other community radio stations in receipt of NIRS programming.

CHAIR—Thank you, Ms Bean. Do you wish to make any other comments at this stage?

Ms Bean—No, thank you.

CHAIR—Mr Nicholas?

Mr Nicholas—No, thank you.

CHAIR—We will start the process then. I know you have questions, Senator Carr.

Senator CARR—I must say I found that a fascinating submission. It is fascinating for a Commonwealth government department to come to us and tell us that a small department, which is Canberra based with no regional presence and with 100 new staff, is now administering programs—and most of these will be in regional areas—worth $42 million. You describe this as a challenge. In Sir Humphrey Appleby language, that is a pretty strong condemnation. Can you outline to the committee exactly how you are going to deal with this challenge?

Mr Nicholas—As you said, we did not have any regional presence before. We are now located in all 22 of the ICCs; we have approximately 70 staff in those areas. The opportunity for us now to use that network to assist with the program development and implementation is one that we see as a positive for us.

Senator CARR—Most of what you say in this submission is just straight waffle. You go on and on about what a great thing mainstreaming is. Explain to me precisely how it works for an organisation like CAAMA in Alice Springs. When I talk to them they tell me they cannot get straight answers out of you about their funding for the employment of, I think, a considerable number of people. They cannot get any clear understanding from you of how these new mainstream processes are actually going to work. Why is it that an organisation like CAAMA has to wait so long to get an answer from you about where its funding is going to come from?

Ms Bean—If you are talking about 2003-04 funding, that has been decided. Processes for the next financial year, 2005-06, are still being developed and will need to be signed off by ministers.

Senator CARR—When were the 2003-04 funding matters finalised?

Ms Bean—It was before we took the section 32 transfer, as far as I am aware.

Senator CARR—How many people work at CAAMA—do you recall?

Ms Bean—A person from our broadcasting area is on his way.

CHAIR—Is there another question you can go to, Senator Carr?

Senator CARR—Yes. I will go back to my original point about the challenge facing the department: perhaps you can explain to me how you are going to manage this challenge.

Ms Bean—It is certainly a different way of working for DCITA, but we do have, as Mr Nicholas said, staff in every office, and we have put in place a structure of state managers who will oversee the staff in the individual ICCs. The program people who came from ATSIS are of course quite used to dealing with regional offices. So, although people like me who have been at DCITA for a number of years are not accustomed to working in a regional office environment, the program staff that came over from ATSIS certainly are.

Senator CARR—Let us talk about, say, the training and human resources administration issues that you are dealing with for the first time. What steps have you taken to deal with those types of issues?

Mr Nicholas—On the training and development side we are working with OIPC and with the other agencies in those ICCs. We are also working with the Australian Public Service Commission, looking at training programs that we can run in those locations. We are also looking at, obviously, the expansion of the training program that we have always run here in the Canberra office and looking at extending that to the regional staff where required.

Senator CARR—Who is meeting the costs of these new measures?

Mr Nicholas—The training and development costs will be met out of the funding that was transferred to the department from ATSIS.

Senator CARR—You talk about the relatively junior profile of most of the staff who have been transferred over. What levels are they at?

Mr Nicholas—I could provide you with a list of the levels. We did get a relatively junior profile and as a result of that we took the opportunity to review the structure. As has been said, we have now put in place a revised structure. We set up a state management arrangement where every state, with the exception of Tasmania, which is managed from the Melbourne office, has an executive level 2 and an executive level 1 in the state. Some of the larger states have an extra executive level 1. So we have taken the opportunity to review and reclassify or upgrade positions as required.

Senator CARR—And how many of those new positions are held by Indigenous people?

Mr Nicholas—From the records, approximately 50 Indigenous staff were transferred in this process.

Senator CARR—Yes, but I was interested in the new senior appointments that you have made.

Mr Nicholas—We actually have a number of vacancies, which appeared in yesterday's *Gazette* and in various papers on the weekend. We are recruiting for those positions that are vacant in the new structure.

Senator CARR—So you have not filled them yet?

Mr Nicholas—We have not filled them yet.

Senator CARR—How many have you filled?

Mr Nicholas—They are all currently—

Senator CARR—They are all vacant?

Mr Nicholas—Ten positions have been advertised in this process. There were a number of senior positions that were filled at the time they were transferred to us, so some of those state management positions are currently filled. Two of the senior positions are in those 10 vacancies.

Senator CARR—And they are held by Indigenous people, are they?

Mr Nicholas—One of the senior positions is.

Senator CARR—One out of the 10?

Mr Nicholas—No, sorry. We have advertised 10.

Senator CARR—I see what you mean. So you would have acting people in those appointments, would you?

Mr Nicholas—Yes, in most of those.

Senator CARR—How many Indigenous people are acting in those senior positions?

Mr Nicholas—I would have to take that on notice.

Senator CARR—I have here the Public Service Commissioner's report, which highlights the deteriorating position of Indigenous employment in the Australian Public Service. On page 151, it lists the main agencies that employ Indigenous people. I cannot see your department listed at all. Are there 50 Indigenous employees in total in the department now?

Mr Nicholas—Fifty were transferred in this process. We had 105 positions, as we have said, transferred to the department. Approximately 90 of those were staffed at that time and, of those 90, 50 are Indigenous employees.

Senator CARR—And that is the total Indigenous employment in the department: 50?

Ms Bean—No, there are some others.

Senator CARR—There are some others.

Ms Bean—But we do not have the numbers.

CHAIR—Can we get the same model as previously?

Senator CARR—Yes, if we could, please.

CHAIR—Could we get from the department the full list?

Senator CARR—Maybe we could get the secretary to write to all departments asking, as a matter of notice, for a breakdown by classification of representation of ongoing Indigenous employees. It would be good if we could get a time series—perhaps 2003-04 and the most recent one for 2005 that is available.

Mr Nicholas—That information, while not available by classification, is in the annual report. As the last agency said, it is a voluntary process, as to people identifying—

CHAIR—Given the standard limitations of the Public Service Act, we would like to have that clearly identified for each of the departments. It should be a simple task.

Senator CARR—You have to do it anyway for the *State of the service report*, so it will not be difficult.

Mr Nicholas—Yes.

Senator CARR—I have to ask about this CAAMA situation. But I am concerned about the employment situation. You are saying that you will have representation in every ICC. I take it that that will be at relatively junior levels as well?

Mr Nicholas—No. With the restructure, we believe we have now got in place an appropriate structure for the department to administer the program. So we have, as I said, increased the senior level positions across the country, as required.

Senator CARR—What sorts of problems do you envisage those staff having to face? You referred to challenges in your submission: what challenges will these staff have to face—these individuals in the ICCs?

Ms Bean—The general role of the staff in the ICCs is to process and monitor applications. They will also be expected to engage in consultations with the local communities and they will be expected to work with the ICC management team and other departments represented in the ICCs to deliver services in their particular part of the country.

Senator CARR—It is a daunting task before you, wouldn't you agree?

Ms Bean—It is not the most straightforward task I have ever faced.

Senator CARR—I have had recent representations from CAAMA, in my capacity as shadow minister. Concerns were being expressed that when they were trying to get clarification about future funding they were told they would have to wait six to eight weeks before they could even get an appointment with senior officers. Has there been a problem with the funding at CAAMA?

Mr Buettel—I am not aware of any particular problems with current CAAMA funding.

Senator CARR—So when are the next financial year's funding arrangements put in place?

Ms Bean—For 2005-06?

Senator CARR—Yes.

Ms Bean—The guidelines are yet to be finalised—

Senator CARR—So they do not know?

Ms Bean—but it will be part of the whole of government funding submission round, which will be advertised I think in the next week or two. We are participating in the whole of government process.

Senator CARR—How many employees does CAAMA have? Do you know, Mr Buettel? Several hundred, isn't it?

Mr Buettel—I do not know offhand. I would have to take that on notice.

Senator CARR—But it would be several hundred. I appreciate you telling me this, but it would be several hundred. We are not that far from the end of the financial year. They have said to me that in the past they have been able to establish well before this what their budgetary situation will be in the next financial year. At this time, they are not able to tell their employees or the people running their programs what moneys are available. Is that a situation that applies to other public broadcasters funded by the department?

Ms Bean—My understanding is that the timing for the submissions for this year is not substantially different from previous years.

Senator CARR—That is clearly not the impression that I have been given, so I would appreciate it if you could just clarify that for me and take on notice how notification of funding has varied from previous years.

Ms Bean—I will take that on notice.

Senator CARR—Is it the case that other publicly funded services are in the same position?

Ms Bean—Yes. A funding round will be advertised later in February.

Senator CARR—So you say that they are in the same position as every other publicly funded broadcaster in terms of the coming financial year?

Ms Bean—Other Indigenous broadcasters.

Senator CARR—No. The point is that other programs—non-Indigenous broadcasting services—are funded by your department: are those organisations aware of their funding for the next financial year?

Mr Buettel—Both the ABC and SBS are on triennial funding arrangements.

Senator CARR—What about community radio? Do they have any indication of their likely funding for next year?

Mr Buettel—No.

Senator CARR—None whatsoever?

Mr Buettel—No. Community radio makes application to the Community Broadcasting Foundation for grants.

Senator CARR—How much forward planning are they able to do with regard to the grants structure? You would appreciate that I am new to broadcasting so you will be able to help me out here.

Mr Buettel—Generally the CBF conducts two funding rounds a year, but the CBF would not receive its funding until the start of the financial year. It would then conduct a grant round early in the financial year and then a second round later in the financial year.

Senator CARR—Is it your submission to this committee that organisations like CAAMA are wrong when they tell politicians that they usually do have funding certainty?

Mr Buettel—I would have to make inquiries as to the past arrangements. It is my understanding that the processes we are following this year are very similar to the processes followed by ATSIS in previous years.

Senator CROSSIN—I would like to ask a few questions about the BRACS arrangements. One of the things that has been disturbing, certainly in the Northern Territory, is that there are a number of communities that have BRACS equipment that is now—or has been for a number of years, probably—lying dormant and unused because of a lack of training being undertaken in communities to allow communities to learn how to use this equipment. Are there any plans in your department to have a look at where unused BRACS equipment might be placed and what funds might be needed to get some of it back on line by providing training or maintenance of equipment?

Mr Buettel—I will set out more generally how we are looking at the broadcasting program and the answer to the specific question will fit into that general context. As you are aware, funding for 2004-05, the current financial year, was fully committed at the time the transition occurred. In relation to 2005-06, we are not anticipating that there will be much in the way of change to allocations in the next financial year but we will be looking at tightening up some performance indicators and eligibility criteria. In the meantime we are having a more substantial look at the broadcasting program, to look at where the unmet needs are and whether funding is being allocated fairly across the entire sector. In the context of that closer examination of the program we will be looking at issues like the use of the equipment at BRACS stations.

Senator CROSSIN—A number of witnesses have put to us during this inquiry their concerns about mainstreaming and the lack of ability by mainstream departments to cater for the specific needs of Aboriginal communities or Indigenous people. One good example of that, which has been brought to my attention a number of times across the Territory and was raised again with us in Sydney on Wednesday, is the question arising from the new legal documents between DCITA and Indigenous arts centres, which pick up the automatic Commonwealth government copyright requirements rather than being flexible enough to recognise Indigenous communal copyright ownership. Can you give me some comments about that? Why have DCITA used that clause in their contracts rather than looking at being more flexible—looking at the communal ownership of copyright rather than the situation that exists in contracts. This is a change; this is the first year that that clause has been in those contracts and it has caused some angst and concern in some arts centres.

Ms Bean—That contract is one that was used across the board, as far as I understand, at the time the bulk of the contracts were entered into.

Senator CROSSIN—That was in June of last year, I think.

Ms Bean—Yes. That was done by OIPC, so it was before we took transfer of the funding. That particular issue has been raised with us and we are looking at ways in which we can improve the situation.

Senator CROSSIN—Does that mean looking at the wording that was in a contract between ATSIC funding and—

Ms Bean—Yes. That particular clause is a standard clause in the Indigenous funding agreement and, in the same way we would in any circumstance where people raised a generic issue, we are looking to see what we can do for next year's agreement. Part of that is taking legal advice and consulting with other departments, because it is not simply our agreement.

Senator RIDGEWAY—It is a pretty important issue, isn't it?

Ms Bean—Yes, and that is why we are taking it forward.

Senator RIDGEWAY—Surely you must be in a position to give us some undertaking that through Indigenous art centres Indigenous people or communities, as a matter of principle, ought to be able to own or retain their own copyright.

Ms Bean—We certainly do appreciate and understand that. There is no ownership issue; I understood it was a licensing issue.

Senator RIDGEWAY—It is a licensing issue, as I understand it, but I also understand that the previous arrangements were fairly generous, in the sense that communities retained their control over copyright, for want of a better description, and what you have now taken on board may well mean that the generosity will no longer apply and the Commonwealth will in fact have exclusive control of copyright.

Senator CROSSIN—The copyright clause is linked to them getting a licence.

Ms Bean—No, they give the Commonwealth the licence. As I understand it, the clause—

Senator CROSSIN—Yes, they are intertwined.

Ms Bean—The grantee, for want of a better word, retains ownership but the Commonwealth gets a licence. That is how I understand it to work. Yes, we are aware that is an issue. You have described the nub of the issue, Senator Ridgeway, and we certainly are aware of that and we are taking it forward.

Senator CROSSIN—How are you consulting with Indigenous people? Are you doing it through art centres or broader Indigenous traditional owners or regional councils?

Ms Bean—The first point has been to seek legal advice on exactly how it operates. The second has been to consult other departments, because, as I said, it is not just a DCITA contract, it is the standard agreement used across government. I cannot guarantee that every department uses it, but certainly a number of departments use the same agreement. We are aware that it needs work, yes.

Senator CROSSIN—All right, certainly we will follow up—

Ms Bean—And, yes, we would engage in consultation, in the same way we would with any generic agreement. Essentially the lead agency in respect of the funding agreement is OIPC and we see our role as being to try to influence OIPC, because we recognise the very real concerns in relation to not just indigenous visual arts but also language and performing arts, for example. So there is a strong cultural element to it, and we recognise that, which is why we have taken it up with OIPC.

Senator CROSSIN—I am going to ask you the same question I asked of DEWR in relation to the secretaries meeting: Miss Bean, do you go or does the secretary of DCITA go to the secretaries group meeting under this new arrangement?

Ms Bean—The secretary goes.

Senator CROSSIN—Do you go?

Ms Bean—No, I have never been.

Senator CROSSIN—Can you take on notice how many meetings there have been and how many meetings the secretary attended.

Ms Bean—I certainly can.

Senator CARR—Shouldn't we make that a standard question on notice to all departments?

Senator CROSSIN—We could, yes. Finally, this is a personal request really. Ever since Richard Alston, as the then minister for this department, released your Indigenous arts centre strategy in 2003, I have been trying to get a briefing on it. So I now put my request on the record, to see if I can actually get it arranged. I have put in six requests so far.

Ms Bean—I am sure if you contact Senator Kemp's office he will be only too happy to organise it.

Senator CROSSIN—Then I look forward to a phone call from you.

Senator CARR—You have to ring them.

Senator CROSSIN—I am continually ringing the minister's office, to no avail.

Ms Bean—Have you spoken to Senator Kemp's office? I will speak to Senator Kemp.

Senator CROSSIN—This is my last resort. I am 'outing' you, because I keep contacting you and getting no satisfaction.

Ms Bean—I am happy to contact Senator Kemp's office to see what is going on.

Senator CROSSIN—I will follow that up. Thank you very much.

Senator RIDGEWAY—I have a few questions. You may have already dealt with these matters, so I apologise for not being in the room at the time. Could you tell us whether there are funding cuts or criteria changes for any of the programs that were previously administered under ATSIC, particularly in relation to groups like the Boomali Aboriginal Artists Cooperative. In Sydney on Wednesday, Professor Larissa Berendt told us about a perceived change in emphasis in funding to Indigenous art centres in Northern Australia. She said that groups like Boomali were pretty much operating on the smell of an oily rag, in terms of their capacity to operate. Are you able to give us any information about whether there has been a shift in emphasis in the administration of funds that came from ATSIC; whether there has been a change in criteria; and whether organisations like Boomali, which produce the likes of Brenda Croft, Bronwyn Bancroft and a range of others, are now essentially under threat of closure?

Ms Bean—Other than some minor amounts around the edges, the funding for 2004-05 is all committed. That was done by OIPC before the transfer of the funds. The guidelines for 2005-06 have not been decided yet. There was a commitment in the government's election policy to provide additional money for Indigenous art. One aspect of that was the release of money from the Aboriginal benefit account, which, in a sense, will favour the Northern Territory, because it relates to the Northern Territory. As I understand it, the terms of the account provide that that money can only be spent for the benefit of Indigenous people in the Northern Territory. If that is a shift in the balance, then—

Senator RIDGEWAY—But you are not aware of any other changes? Are you able to go away, have a look at that and give the committee a response?

Ms Bean—Yes. I am certainly not aware of any other changes, and we are conscious that Indigenous visual art is not just a remote issue.

Senator RIDGEWAY—Could you—perhaps this should be a question on notice—explain how the regional arts fund will now operate? Is the funding going to be the same? Are you able to provide any funding figures for the ongoing operation?

Ms Bean—I would prefer to take that on notice because I did not come equipped with a briefing on regional arts fund issues.

Senator RIDGEWAY—These are all relevant. They are programs that have essentially been transferred across from ATSIC.

Ms Bean—The regional arts fund is a DCITA program that has been with DCITA since 1996.

Senator RIDGEWAY—How are relations between DCITA and Indigenous coordination centres? Are you finding that they work reasonably well? We have heard evidence that, in some instances, because each lead agency has a different purpose and function, the coordination centres are finding it problematic to get a common vision and a common effort and, as a result, you end up with different outcomes. In that respect, how have your experiences been? Are you trying to mediate any apparent tensions that might exist? Maybe I should ask: are you dealing with ICCs?

Mr Nicholas—The ICC process has settled down well. As I said earlier, we had a look to make sure we had the right structure in each of the areas to ensure that we could administer our programs and implement them appropriately. We are continuing to work, as all agencies are, at participating with each other to make sure that we have a streamlined process for the operation of those centres.

CHAIR—Does anyone from the department wish to make a final comment?

Ms Bean—No.

Senator CARR—I am really quite disturbed by what I have seen today in the submission. It seems to me that what we have here—and I will ask you to respond—is a situation where the department may not have had too much consultation about the transfer of these programs. It seems extremely poorly equipped to deal with the new situation. What do you say to that?

Ms Bean—The department was certainly engaged in a very rigorous consultation process. There was significant consultation, and we welcome the programs.

Senator CARR—So did you explain the challenges to the proponents of this transfer?

Ms Bean—I was not involved at that time, but I understand that there were a number of discussions about structures, movement of people and all of it.

Senator CARR—Were the challenges fully explained to the proponents of this new policy direction?

Ms Bean—As far as I know. As I said, I was not involved at the time, so I cannot say what was and was not said.

CHAIR—Maybe you can get more detail on this in the Senate estimates process, Senator.

Senator CARR—I will. Is cultural heritage, like the repatriation of remains, a matter for this department?

Ms Bean—Different bits are dealt with by different people.

Senator CARR—This is the point.

Ms Bean—International repatriation has remained with OIPC. DCITA has, for several years pre the mainstream process, had responsibility for the repatriation of remains and sacred objects from Australian museums to communities. The Department of the Environment and Heritage and the RACS program—which was an ATSIC program, then an ATSIS program and is now ours—have worked on keeping places.

Senator CARR—That is pretty clear then. We will have no trouble tracking all that down.

Senator CROSSIN—Who has responsibility for the artwork and art assets—

Ms Bean—Of ATSIC?

Senator CROSSIN—Yes, which is ATSIC-ATSIS.

Ms Bean—OIPC.

Senator CROSSIN—So we should ask them questions about that this afternoon?

Ms Bean—Yes. That should be directed to OIPC.

Senator RIDGEWAY—As a follow-up from Senator Carr: who is now dealing with the question of the capacity to deal with the acquisition of material that may be at risk of being sold offshore—for example, through auction houses?

Ms Bean—Do you mean the Victorian issue?

Senator RIDGEWAY—No. I understood previously that ATSIC was, in certain instances under the Aboriginal and Torres Strait Islander Heritage Protection Act, able to acquire material that might be sacred or significant in some cultural form that was in an auction house.

Ms Bean—That is certainly not DCITA. I think it is the Department of the Environment and Heritage.

CHAIR—Thank you very much. We will be sending those questions on notice to you. If there is any delay in getting them back, could you let us know quickly.

Ms Bean—Certainly.

[11.55 a.m.]

BEAUCHAMP, Ms Glenys, Group Manager Families and Children Group, Department of Family and Community Services

HUNTER, Mr Stephen, Deputy Secretary, Department of Family and Community Services

PRINCE, Ms Gwenda, Acting Group Manager Communities Group, Department of Family and Community Services

TAYLOR, Mr Peter, Branch Manager, Indigenous Housing and Infrastructure Branch, Department of Family and Community Services

CHAIR—Welcome. We understand that as experienced witnesses you understand about the in camera provisions and also those which relate to public servants in any of these activities. As you know, with these processes we have the chance for an opening statement to focus on activities and then we go into discussion with senators. Mr Hunter or Ms Prince, would you like to open?

Mr Hunter—I have a short opening statement. I would like to take the opportunity to update the committee on developments that have occurred within the Family and Community Services portfolio since the preparation of the Australian government submission to the committee in August last year. But before I do it is relevant to note that prior to the transfer of ATSIS programs to mainstream agencies in July 2004 the Department of Family and Community Services already had a significant involvement in the provision of services to Indigenous communities. It did this both through Indigenous specific programs and through the extended suite of mainstream programs and payments administered by the department. Family and Community Services already had an ongoing commitment to strengthening and supporting Indigenous communities, families and individuals. In 2002 we released a statement of commitment to Indigenous peoples entitled *Indigenous Business is Everybody's Business*. The commitments in that statement remain current.

To support the significant involvement that FaCS has had historically in Indigenous service delivery we have developed a variety of mechanisms to consult with Indigenous communities. We had also made a significant investment in ongoing research through partnerships with research institutes and a longitudinal survey of Indigenous children. Prior to the transfer of the former ATSIS functions, the Department of Family and Community Services also remained very active in support of the whole-of-government approach to the Council of Australian Governments trial site in Wadeye in the Northern Territory. A number of recent achievements in Wadeye included improved relationships between the Australian and Northern Territory government representatives and Wadeye residents; funding to construct a factory that will allow for all-year-round construction of houses; development of a coordinated employment and training plan, including 16 apprenticeships being offered in the construction industry; and a range of other initiatives at the school all aiming to increase school attendance.

Moving on to the machinery of government changes of 26 October 2004, Centrelink and the Child Support Agency moved from the Family and Community Services portfolio to the Department of Human Services. As well as this move, some policy and program responsibilities moved to the Department of Employment and Workplace Relations and the Department of Education, Science and Training. In the case of Employment and Workplace Relations, the policy and program responsibilities focused on people of working age and include Newstart, disability support pension, disability open employment services and Green Corps and the Job Placement Employment Training Program. In the case of the Department of Education, Science and Training, the responsibilities that transferred involved support for students, including through Austudy and Youth Allowance. In addition, the Office for Women transferred to the Department of Family and Community Services from the Department of Prime Minister and Cabinet. The policy and program responsibilities that moved both to and from FaCS in October 2004 all have some significance for Indigenous Australians.

I am conscious that the committee is likely to be particularly interested in the responsibilities that transferred to Family and Community Services in July 2004 as a result of the mainstreaming of former ATSIS programs. Those key programs for us were the Community Housing and Infrastructure Program and family violence programs. In addition, Aboriginal Hostels Ltd joined the Family and Community Services portfolio. In managing the transition of these functions to Family and Community Services we paid particular attention to maintaining the continuity of services, ensuring the staff transferring to us were carefully integrated into their new department and working in close concert with other Australian government agencies to ensure the government's overall objectives were given effect. We were also careful to place the incoming functions in close proximity to the related mainstream activities of the department to make the most of potential synergies. So, for example, the Community Housing and Infrastructure Program now sits in a single group with the department's pre-existing housing functions. Similarly the Indigenous family violence programs have been located with our mainstream family responsibilities.

With the transfer of some ATSIS functions to the portfolio, FaCS now has a greater presence in rural and regional Australia. This arises from our presence in each of the Indigenous coordination centres. This will increase opportunities for FaCS to be better connected with local communities and our capacity to be cognisant of local needs. At the same time, it builds on an already well-developed strength in the delivery of Indigenous services in remote locations.

Since these transfers, we have been able to get on with the job. Recent achievements in relation to ATSIC-ATSIS programs illustrate this. I will just give a couple of examples to assist the committee. Since July 2004, substantial progress has been made by Family and Community Services in developing and implementing the Indigenous Family Violence Partnership Program. These achievements include the establishment of a new team within FaCS working on the program full-time; the development of program guidelines, funding principles and assessment processes in partnership with Australian government agencies and selected state and territory governments; the finalisation of initial bilateral consultations with every state and territory government to encourage participation in that program; and the conduct of further discussions on project proposal with state and territory governments, particularly the Northern Territory, South Australia, Victoria, Western Australia and the Queensland governments. Since July 2004, we have also made substantial progress in developing and implementing the Family Violence Regional Activities Program.

In conclusion I should also mention the largest program which transferred to Family and Community Services—that is, the Community Housing and Infrastructure Program. For the 2004-05 financial year, 23 Bushlight renewable energy systems have been installed in small communities in the Northern Territory, Western Australia and Queensland. Of the $44 million allocated for municipal services in 2004-05, 63 per cent has been released to 177 grantee organisations that provide essential services to an estimated 50,000 Indigenous people. Around 45 per cent of the $134 million allocated for housing and housing related infrastructure in 2004-05 has been released to Indigenous housing organisations and to state and territory grantees under bilateral agreements. It is estimated that 220 houses would have been purchased or constructed and that 450 houses would have been upgraded or renovated to date with those funds. Recurrent funding is also provided direct to Indigenous housing organisations to manage approximately 4,000 houses.

The incorporation of Aboriginal Hostels Ltd within the portfolio has also proved beneficial as there is a large overlap between the services sought by AHL clients and the many pre-existing FaCS programs. Indeed, AHL furthers the continuum of housing and emergency accommodation programs funded under the portfolio.

In carrying out both the pre-existing and new Indigenous functions, FaCS have continued to ensure that consultative processes with Indigenous people are appropriate to the policy or program in question and that we make decisions in an informed and sensitive manner. Thank for the opportunity to make an opening statement.

CHAIR—Thank you. You are aware that the committee has established a number of standard questions for all departments. There will be a number of other questions on notice, but the committee has specifically requested data on Aboriginal employment within the agency both before and after the changes. It is a bit more complicated for your department as you had a number of other changes as well, and we will take those into account. Another standard question was on attendance at the interdepartmental heads meetings that occur: 'How many have occurred that you were involved in and who attended on behalf of the department?' I think they are the standard questions that we had agreed on as a committee. I have one question. You made a note that you now have a presence across regional Australia because of the ICC presence. My question on notice is: where would that differ from your presence to the Centrelink network? I would have thought that the Centrelink network was a very wide-ranging regional location. I would like some consideration of what would be the difference in how that operates.

Senator RIDGEWAY—In questions to the last witnesses you may have heard the one that I asked about having some sort of common vision and how you achieve that when you have a number of lead agencies. The ICC supposedly has some capacity to be able to represent the aspirations of local Indigenous people. Have you found difficulties in trying to achieve that, particularly in terms of the work that you have previously performed and the programs that you have now inherited, especially in relation to the transfer of property? We are hearing from witnesses about problems with the transfer of properties and decisions that have been taken previously—that is, earlier decisions not being carried out or decisions being changed midstream because you are assessing them against the criteria of your organisation as opposed to local aspirations. You might want to respond to that. In Sydney we heard from the chairperson of the Sydney regional council about arrangements in La Perouse, where there was an agreement, including FaCS being in agreeance with the ICC. I understood that by week's end during that

particular arrangement FaCS had taken a completely different course in relation to remedying housing programs at La Perouse.

Mr Hunter—I will come to your question about La Perouse in just a moment. I will invite my colleague Peter Taylor to assist you with that. You started your question by asking about an overall vision. I interpreted your question as asking us whether we had guidance in—

Senator RIDGEWAY—It goes to the question of the effectiveness of ICCs—that is, the government's new arrangements. How effective will they be if lead government agencies take a different view?

Mr Hunter—In terms of the government's priorities in relation to Indigenous issues, as agencies we are given broad guidance through, in particular, the ministerial task force that has been established and the secretary's Indigenous group. The ministerial task force has identified a number of priorities that it wishes to pursue, and I think they were contained within the submission which is provided to you. They focus particularly on Indigenous economic development, issues of violence in Indigenous communities and investing in the health of early childhood experience in Indigenous communities. So we have some broad guidance through the ministerial task force through which we operate. At the individual ICC level there is a particular focus on working with the communities that the ICCs are located in to identify priorities, and in particular to do that through the shared responsibility agreements process. While that process is led by the Office of Indigenous Policy Coordination, it provides us with a framework within which to operate at that level. Perhaps we could now go to the particular questions that you have in mind in relation to La Perouse. I will ask my colleague Peter Taylor—

Senator RIDGEWAY—Two come to mind: one is the La Perouse example and the other is in relation to the Bowraville community in northern New South Wales.

Mr Taylor—I understood your question in relation to La Perouse to be about the transfer of property. My understanding of the issue at La Perouse is that it is really about the question of capital investment for the redevelopment of housing and the establishment of new housing. The question of the transfer of property is really not relevant to that. In relation to redevelopment and capital upgrade of housing at La Perouse, it has been a difficult issue over a few years for ATSIC, ATSIS and now FaCS. From an Australian government point of view, the issue is really around the ability of the local Aboriginal land council, as the owner of that estate—

Senator RIDGEWAY—To collect rent?

Mr Taylor—Yes—to effectively manage upgraded assets. One of the difficult questions in responding to the acknowledged need for capital upgrade of housing there is whether or not the investment is going to be effectively managed over time. I think at least six months ago a decision was taken in consultation with a range of stakeholders, Commonwealth and state, to invest quite substantially in a community development process to deal with a lot of the community dysfunction—the governance issues at the community—with a view to trying to establish a platform for stable management of the assets at La Perouse land council. To a large extent, the delays in investing in new capital and upgrades at that community have been driven by problems in sorting out that governance arrangement.

Senator RIDGEWAY—But isn't there another issue here, given the terms of reference of this inquiry and the great emphasis that the government has placed on the role of Indigenous coordination centres? If there was a meeting some six months ago, at which I understand there was agreement reached by all the stakeholders, including the government agencies involved, including FaCS, and then sometime later FaCS decides to take a different path, doesn't that compromise the new arrangements that the government has put in place? Isn't it appropriate that, if you have a different view, that view be dealt with in the context of ICCs? Otherwise, what is the point of having them?

Mr Taylor—I am not sure what you are referring to in terms of FaCS having a different view. It may not be public knowledge yet, but there have been recent decisions taken to extend the process of investment around capacity building at La Perouse and some targeted investment in capital upgrades to support a strategy of improvement in the community management. Those decisions, which were taken earlier this week in fact, were made in consultation with both the state government—the Aboriginal Housing Office—and the state manager of OIPC.

Senator RIDGEWAY—What about the existing ATSIC regional council? They are still being resourced and presumably they would have a role.

Mr Taylor—Yes. I understood from the latest discussions with the regional council that they were entirely supportive of continuing the process of a fairly long, drawn-out engagement with La Perouse. Their consistent view for a number of years now has been to try and secure continuing investment. One of the big challenges for ATSIC/ATSIS and now FaCS has been the long delays in securing a stable platform for investment in that community. The regional council has consistently had a view that agencies should, in a sense, cut the community some slack, and that has happened. It has continued to happen and so I doubt that the regional council would have a differing view, that they would actually disagree with the recent decisions that were made. I would need to talk to colleagues in OIPC about the extent of their local briefing around that but, as I understand it, the views are relatively consistent and continuous.

Senator RIDGEWAY—Would you mind taking that on board?

Mr Taylor—Sure.

Senator RIDGEWAY—We heard on Wednesday, as I say, a very different view from the chairperson of the regional council, expressing great concern and, more particularly, wondering what the impact would be on a place like La Perouse. Could you address the question of Bowraville? I am sure you are aware of this issue. I understand ATSIC made a decision to transfer property to a local mothers group and that, when the property was transferred over, under new arrangements, to FaCS—perhaps it is still in train—FaCS applied different criteria and those criteria related to housing, which was not necessarily consistent with local aspirations. A mothers group had already made the bid, made the application and invested significant time and resources on the understanding that the property was going to be transferred to them, and the end result was that, while they have not formally been advised, there is the possibility that this may be reversed.

Mr Taylor—I think the issue with that is not so much a shift between ATSIC/ATSIS and FaCS as a shift between the position of a regional manager and a national manager within the

Australian government. I think the relevant question is the loss of an Australian government property from what was intended to be community rental to a community facility. I was personally involved in the discussions around a likely decision on that matter, and my view at this stage is that local organisations should explore the opportunity for alternative sources to resource what I think is generally recognised as a necessary local support arrangement for mothers in the area. One of the competing priorities, from an Australian government point of view, is retaining available housing stock in that area. I do not see it as a transition issue around the mainstreaming arrangements.

Senator RIDGEWAY—It is an issue of trying to reconcile local aspirations and efforts that had already been taken—and this could be any community anywhere in the country—with the way that government bureaucrats may decide to asses the particular matter, not necessarily consistently with local views, including community support. The reason it is important is that we have heard evidence all this week and, in fact, before this week, that those programs that have been successful not just here but also in overseas jurisdictions are those programs where community aspirations and involvement in decision-making processes are followed through with.

It seems to me that the process that you are describing is at odds not just with local aspirations but also with the involvement of local groups. I think there is a need for the department to reassess how it views these things so that the local views are taken into account and are given adequate weighting, particularly in light of that fact that, come midnight on 30 June, regional councils will not be there and communities will effectively have no way to advocate their position. It is a fairly important issue and it is not the only one; there will be other ones that will arise. I wonder whether the department is in a position to give some undertaking to improve the way that it looks at these particular issues but most of all to find a better way—and ICCs may be part of the answer—of making sure that local aspirations are being met in the process.

We have had evidence this week which shows that the only inroads in Indigenous affairs that have been made have been by those programs that have been run by ATSIC and that, where things have gone backwards, they have been by lead agencies operating Indigenous programs with very little Indigenous involvement. I think it is important to keep that in mind in terms of outcomes and if you expect things to improve.

Mr Hunter—As I said in my opening remarks, we place getting the right level of consultation and engagement very high on our priorities in all the things that we do. That had been part of our business before the functions came to us from ATSIC/ATSIS and since. There are a number of levels on which that occurs. Individual programs will often have a particular constituency or group with whom we will deal—for example, around child-care issues or in Indigenous communities and so on. We will work closely with the organisations and the individuals involved to make that program or project which is part of the program work. At a broader level, yes, you are right: there are the ICCs and the shared responsibility agreement processes, which are designed to engage communities at a more general level and in which we would also participate.

Senator RIDGEWAY—I do not mind saying that I gave support to the original transfer prior to any of the new arrangements being in place. A lot of that followed on the media debate that ensued and the mileage that the government made in terms of violence against women and

children. It seemed to me that, if that was a priority established by this government, here you have an example of a community taking action to ensure that there is an opportunity for women to be empowered and also look after the question of young people. Given that Bowraville is listed in the top 10 of most disadvantaged communities—black or white—in New South Wales, it seems ludicrous to me that another criteria is imposed in the transition process to produce a result that may reverse that action. I would seek some undertaking that FaCS would go back and reassess that in light of local expectations.

Mr Hunter—I have not been personally familiar with the issue to you have raised in relation to that community but, as you have raised it and sought that assurance, I would be happy to take a second look at the issue.

Senator RIDGEWAY—Thank you.

CHAIR—Mr Hunter, could we have an update in writing of exactly what is happening, from your point of view, with those two projects that Senator Ridgeway raised, particularly as you have the responsibility for community housing? Can we have the public notice of the information that you gave on the La Perouse situation and information on exactly what is happening with the second one?

Mr Hunter—Yes.

Senator JOHNSTON—Mr Hunter, one of the criticisms amongst others that we have heard, is that ATSIC policy was made in the south-eastern corner of Australia and that there did not appear to be a great understanding by the policy makers of what was actually happening out in the lands in the central reserve area, in the remote regional communities. I am pleased to see that in your accountability section you take a fairly aggressive approach, it strikes me, to benchmarking yourselves. But have you got a program whereby managers and SES officers can leave Canberra to go to the Northern Territory, South Australia, Queensland and particularly Western Australia to have a look at what life is actually like in a remote Aboriginal community—say, to where my experience is, in Blackstone, Jigalong, Pungmu or Balga? Have we got a program like that so people can go to those places and get a real feel for what is happening on the ground?

Mr Hunter—Yes, we do. It does not cover all the states and territories, but we have a program being run by our office in Darwin which enables officers at the SES level to visit a number of remote communities in the Northern Territory to do the kind of thing that you have just suggested—

Senator JOHNSTON—Why the Northern Territory?

Mr Hunter—to understand the conditions on the ground and, of course, to also better understand our own programs in those areas. When the programs came to us from ATSIS, we put a lot of emphasis on ensuring that the senior people in our state and territory office network—based in the capital cities there too—spent a great deal of time going out and talking to and welcoming the staff that joined us, and getting to know the business. My colleague Gwenda Prince might be able to elaborate.

Ms Prince—Yes. There are, as you know, eight state and territory offices. ATSIS staff came across in the capital cities and also in the regions. There was a particular effort made at senior levels to welcome, induct and orient the staff into the FaCS organisation, and the state managers were very involved in that process. It involved doing a lot of videoconferencing with remote areas and going out to visit state managers, in particular those in the states where there are more remote locations—the Northern Territory, Queensland, Western Australia and South Australia in particular, and New South Wales. I do not have the precise travel details for those state managers, but I know that they spend a lot of time travelling around their states, and a lot of the business that they are engaged in is visiting and being involved in Indigenous business. I am sure one can always learn more, but I think that they do make a pretty good effort to get out and about and understand things.

Senator JOHNSTON—You are both very senior and important members of what is the delivery of a government service. Has either of you ever been to remote Aboriginal communities in central Northern Territory, central Western Australia or Queensland?

Mr Hunter—I have. In fact, I visited Wadeye at the same time as Senator Scullion last year and I had been there a couple of times before. I worked in remote Australia for a number of years.

CHAIR—Was that part of the COAG process, Mr Hunter?

Mr Hunter—At the COAG site, yes. You mentioned Jigalong, Senator Johnston; I spent two years living near Jigalong when I was a young person working in the mining industry.

Senator JOHNSTON—You were at Newman?

Mr Hunter—Not actually at Newman—in a camp there.

Senator JOHNSTON—Thank you.

CHAIR—Ms Prince, do you want to put anything on the record in response to Senator Johnston's shameless question?

Ms Prince—I have actually been working in Victoria for the last 2½ years, so that is some distance from where he is talking about.

CHAIR—I am just asking because the question was to both of you.

Senator RIDGEWAY—You can be remote living in a place like Redfern.

Senator JOHNSTON—That is a point.

Ms Prince—Absolutely, and there are remote issues in Victoria as well.

Senator CROSSIN—Can I ask you whether you have thought of how you might evaluate your COAG trial at Wadeye and who is going to do that and when it might start, or is it too early?

Mr Hunter—Yes, we have given that some thought. The evaluation has not commenced yet but we intend that it commence, I believe, in the next six months. That evaluation intends to look at how we have gone about the processes and engagement that we have had there to see what we can learn from it. It will not only look at the processes we have engaged in but also seek to understand and analyse the outcomes that have been achieved.

Senator CARR—Who is going to do the evaluation?

Mr Hunter—I do not have that information to hand. I understand that the Office of Indigenous Policy Coordination will be handling that evaluation.

Senator CROSSIN—It has been put to us many times during this inquiry that that might be one source of evaluation but that, to be truly independent and critical to moving the situation forward, other outside bodies need to do it. You cannot have the main agency that is coordinating these trials also evaluating them. That can happen but it is not seen to be adequate. Is there any suggestion from FaCS, for example, that you might get IATSIS, CAEPR, HREOC or some other independent statutory authority also to conduct an evaluation for you?

Mr Hunter—I am not aware if we have considered that in relation to the Wadeye site. I do know that we have, for example, in the area of demographics and potential housing needs at the Wadeye site, engaged independent academic advice to understand properly the situation there. So we have sought to base our actions particularly in that area on an independent and rigorous understanding.

Senator CROSSIN—That is more an assessment of a need though, isn't it?

Mr Hunter—Yes, I understand the point that you are making. Could I take on notice, though, whether we have considered any evaluation beyond the OIPC one that I have mentioned?

Senator CROSSIN—Sure. Are you familiar with the IHANT structure in the Northern Territory, now that you have responsibility for housing under the CHIP program?

Mr Hunter—We are, generically. My colleague Peter Taylor in particular would be—

CHAIR—The corporate 'we', Mr Hunter.

Mr Hunter—Yes.

Senator CROSSIN—Is FaCS doing anything to look at the benefits of that program—not so much 'program' as 'method of operation'—with a view to whether it would work being coordinated by FaCS in other states and territories?

Mr Taylor—I am aware that there has been an evaluation and a review done of the IHANT structure as part of the process for the various parties to the agreement underpinning IHANT to prepare themselves for re-negotiation of a new bilateral agreement. Some independent consultants were engaged to review the effectiveness of IHANT and the administrative arrangements pursuant to it. That has been the subject of a couple of workshops, I think, in the

Northern Territory in which FaCS has been a participant—so, yes. Also I think from a national point of view we have fed in advice and perspectives around the relative benefits of—

Senator CROSSIN—So you are going to wait until that review is finished, are you?

Mr Taylor—In fact, the review has been finalised. CDSCA is the contracting agent in the Northern Territory for that evaluation and its advice is that the review has been completed. The review outcomes have been the focus of workshops et cetera, and FaCS has been part of that, but the process of the various parties that are stakeholders to the agreement has not been concluded. I think governments, plural, would reserve their rights to have a look at what they think of the outcomes from that evaluation.

Senator CROSSIN—Has the funding for Aboriginal women's resource centres been taken over by FaCS?

Mr Hunter—I am sorry, I do not know the answer to that question. Could I take that on notice, please?

Senator CROSSIN—Perhaps you could just have a look at it and I can ask you some questions about it during estimates. If you have taken it over, I want to now know who you are consulting, where you are getting submissions or requests for money from and who will make the decision as to where the money goes.

Mr Hunter—The advice I have from my colleagues by a head shake is no, we have not had that function transferred.

Senator CROSSIN—I will ask OIPC then.

Senator CARR—The Aboriginal Hostels Limited report; is it the case that it reports to both your minister, the FaCS minister, and the Minister for Finance and Administration?

Mr Hunter—Yes.

Senator CARR—Can you tell me why?

Ms Beauchamp—In the machinery of government changes the allocation of Aboriginal Hostels Limited was within this portfolio, with joint oversight by the Minister for Family and Community Services and the Minister for Finance and Administration, which is a fairly general way of oversighting the financial arrangements from the department of finance's point of view. So it is nothing dissimilar to some of the other statutory bodies.

Senator CARR—Was it the practice with past machinery of government arrangements to have Aboriginal Hostels reporting to two ministers?

Ms Beauchamp—I am not too sure what the arrangements were prior to the machinery of government changes.

Senator CARR—Will you take that on notice for me, and can you give me an explanation for why the change, if it has occurred, occurred?

Ms Beauchamp—It was certainly a decision of government.

Senator CARR—Yes, obviously. But there must be some explanation somewhere in the system as to why it was felt necessary to do that. What concerns were the changes seeking to address? Could you answer that for me as well? I have put questions on notice with regard to the structure of the employment of Indigenous people in the department. But I noticed in the latest *State of the Service Report* that FaCS record for the employment of Indigenous people is not particularly good. The way I read the table on page 151 it is in fact less than half the average of Indigenous employment. That would be right, wouldn't it?

Mr Hunter—I do not have those numbers in front of me. But I would acknowledge that, as a department, we know and believe that we can do better. Indeed, we launched, even before the ATSIS transfers to us, an Indigenous recruitment and retention policy for the department to seek to increase and improve our performance.

Senator CARR—Can I have a copy of that?

Mr Hunter—Yes, of course.

Senator CARR—Thank you. I take it that you will also, as part of that policy, be developing training programs and human resource programs for Indigenous employees. Is that the case?

Mr Hunter—Yes, it is. We took a number of steps when the ATSIS function was transferred to us. They included, in particular, a focus on providing our new employees with an understanding of how the new department operated and inducting them, as carefully as we were able, into the department. We have also seen that as a two-way process. We are also looking at cultural awareness training within the department more generally, so non-Indigenous officers in the department also have a better understanding of Indigenous culture and so can do our work better. In terms of particular programs focused on Indigenous employees of the department, we will be working in particular with the APSC, the Australian Public Service Commission, on its employment Indigenous strategy, which will contain elements which are related to the skills of Indigenous people.

Senator CARR—I will have a look at your strategy document and perhaps come back to that issue when we get a sense of whether or not there has been an increase in the level of Indigenous employment. I take it that that is the case—is it? There has been an increase?

Mr Hunter—The impact of the transfer—

Senator CARR—Automatically increases.

Mr Hunter—Yes, automatically increases. What I think I do not have are some figures which make a comparison, say, between the numbers when the functions came to us and where they are now.

Senator CARR—I will put that on notice, because we are interested to know whether or not senior employment has increased as well. I am interested to know how your role in the new ICCs will mesh with your existing state and regional networks and offices. How will that work?

Ms Prince—Basically, the state and territory offices have a state based structure, and there are offices in each capital city. There are sometimes regional offices, and then there are the ICCs. There are FaCS staff in each of the ICCs, and those numbers generally vary depending on the size of the ICC, but there is something between two and six staff in most of the ICCs, and one or two of the ICCs are much larger. Essentially, the way FaCS thinks about it is that you have a sort of state suborganisation, and it runs as a kind of integrated whole. So the staff who are working in the ICC obviously do what they do in the ICC, but, in terms of them interacting back into the state structure, they interact back into the state offices and they are becoming familiar with all the FaCS programs. They are able to take their knowledge of those programs into the ICC context and, we hope, are able to apply them into local solutions.

Senator CARR—Let us take the Darwin office, for instance. Can you advise the committee how that operation will work? Is it the case that the department is planning to split its staff along the lines of service delivery to Indigenous and non-Indigenous people?

Ms Prince—I am sorry, I did not quite hear what you said.

Senator CARR—Is it the plan of the department with regard to Alice Springs to separate staff, in terms of service delivery operations, into those persons dealing with Indigenous and non-Indigenous people?

Ms Prince—I am not aware of that particular detail, but what I would say about the Northern Territory office is that, because of the range of FaCS business, largely in human services, Indigenous people are a very large proportion of the Northern Territory population and are very important, concentrated clients of the Department of Family and Community Services. If that particular servicing arrangement is being planned, the intention of it would be to provide better service, basically, and more appropriate service delivery.

Senator CARR—I would like to know whether or not you will provide some services to non-Indigenous people from ICCs.

Ms Prince—I would have to take that question—on that particular issue in that place—on notice.

Senator CARR—Could you tell me whether this confusion on this issue is confusion, or is it just lack of knowledge?

Ms Prince—I think it is just a lack of detail about or knowledge—

Senator CARR—Of that particular matter.

Ms Prince—of that particular office. As far as Alice Springs is concerned, there was a FaCS regional office in Alice Springs and there is an ICC in Alice Springs, and it is possible that there

has been some combining of those things. That might be where some of this issue has arisen. I would have to get a more detailed briefing to be able to elaborate on that.

Senator CARR—The reason I asked the question is that it suggests to me that there might be some tension between the mainstreaming of services and the service delivery, particularly in areas where the specific needs of Indigenous communities require special attention. It might actually highlight the problem of this policy approach. So I would like to know the answer to this question of whether or not you intend to separate staff according to the people they are actually delivering services to.

Ms Prince—We will provide that answer to you.

Senator CARR—What progress are you making on removing remote area exemptions for income support?

Mr Hunter—That is no longer a responsibility of the Department of Family and Community Services.

Senator CARR—So you have no responsibility for income support at all?

Mr Hunter—We have responsibility for income support—principally, for people who are not of working age. The remote area exemption applies to Newstart in particular, and that is now the responsibility of the Department of Employment and Workplace Relations.

Senator CARR—But, for the areas for which you do have responsibility, has any work been undertaken on phasing out remote area exemptions for activity testing, for instance?

Mr Hunter—I believe the answer to that is no, because the functions and income support we provide are not influenced, as far as I am aware, by the remote area exemption provisions. For example, family payments are not influenced by remote area assistance.

Senator CARR—Fair enough. So you now have no responsibility for any activity tests whatsoever?

Mr Hunter—I would just like to take it on notice to check that there were not any residual, very small programs that might be influenced.

Senator CARR—Fair enough. If there are, I would like to know what work the department is doing on removing remote area exemptions on activity testing. Can you give me some advice about what progress is being made on the smartcards that you are introducing to Cape York.

Ms Beauchamp—Along with a number of other agencies and stakeholders, the department is looking at what opportunities might arise to attach the use of smartcards to the family income management program that we are administering up there. That project is still in the early stages in terms of talking to and consulting with communities and governance arrangements.

Senator CARR—Is it the intention that all families be placed on smartcards?

Ms Beauchamp—No decision has been made about the use of smartcards. At the moment, the family income management project is voluntary, and I expect that that arrangement will continue.

Senator CARR—Explain to me the nature of these smartcards. Do they limit expenditure on certain items?

Ms Beauchamp—There have been no decisions on how smartcards would be used. We are looking at how particular families and communities would benefit from using smartcards for their transactions. No decisions have been made about how the smartcards would be used.

Senator CARR—Are you currently working on proposals to introduce smartcards which combine technologies for the monitoring of expenditure by people in receipt of Commonwealth payments?

Ms Beauchamp—As I said earlier, no decisions have been made—

Senator CARR—That is not my question. I appreciate that, as you have said several times now, no decision has been made. My question goes to the issue of whether or not you are doing any work.

CHAIR—I think it is a wider question on whether you are doing any work.

Ms Beauchamp—I think a number of agencies are doing some work—primarily, external to the Public Service. I am not aware of the extent of the work that is being undertaken. I can only comment in relation to—

Senator CARR—I understand that—and I will deal with the other agencies. But I am interested in your agency. Can you advise the committee of the nature of the work you are undertaking.

Ms Beauchamp—Through the family income management project, the communities have identified that there could be opportunities to extend and enhance the program we have up there through the use of smartcards. All we are doing at the moment is looking at what those opportunities might be and what the communities up there would like.

Senator CARR—So it is just consultations? There have been no consultancies, no contracts let, no research papers commissioned?

Ms Beauchamp—I would have to take that on notice.

Senator CARR—I would like to know the details of the nature of the work, the forms of consultation and whether or not there have been any discussions or work undertaken about the linking—the integration—of smartcards and other technologies into the family income management project. I am being quite specific, because I am reading from a document. So I appreciate that you can check your records.

Ms Beauchamp—I will do that.

CHAIR—That is the end of our questioning. A number of questions have been placed on notice, so we will get those to you through the secretariat by early next week. If there is a delay in getting those answers back, can you let us know so we can work with you on those. Thank you very much.

Senator SCULLION—Senator Carr has quoted extensively from a government document. I wonder if he would make that available to the committee.

Senator CARR—I will have to consider that because it might identify my source.

Senator SCULLION—You can get back to us on that.

CHAIR—The committee will now suspend for lunch.

Proceedings suspended from 12.46 p.m. to 1.31 p.m.

GREER, Mr Anthony (Tony), Group Manager Indigenous and Transitions Group, Department of Education, Science and Training

SMITH, Ms Susan, Branch Head, Business Performance Improvement Branch, Department of Education, Science and Training

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Ms Smith—I am the branch manager of the Indigenous education policy branch in the Department of Education, Science and Training

CHAIR—I know that you are experienced witnesses so you know about giving evidence in camera if you choose, and you also know the situation with public servants giving evidence before Senate committees. If you would care to make an opening statement we will then go into discussion with senators.

Mr Greer—Thank you, Chair. The department is actively participating in the new administrative arrangements. Although DEST's arrangements were only minimally impacted by the decision to reassign ATSIC and ATSIS programs to mainstream departments, the reforms provide new opportunities for DEST to work with other agencies to further improve its effectiveness at improving outcomes for Indigenous people. DEST views the formation of Indigenous coordination centres as an opportunity to better integrate education and training initiatives with employment activities, health initiatives and families and communities and regional infrastructure programs. We are working to have our regional network integrated into the new ICC structure at the earliest possibility. Staff in DEST's state and regional network in particular are working with the new coordination arrangements. Our state managers are working closely with metropolitan, rural and remote OIPC staff and over time DEST's regional network will be joined physically, or affiliated virtually, with the ICC regional footprint.

In seven of the 22 rural and remote ICCs, DEST previously did not have a presence. We have taken the step to put staff in those seven offices in areas where previously there was no DEST presence—that is, in Derby in Western Australia, in Ceduna, Roma, Coffs Harbour, Tamworth, Bourke and Queanbeyan. In the other 15 locations, where former ATSIC officers were located and DEST had a regional presence or a district office in the area, we have already co-located physically in seven of those sites. Another site is to be co-located by the end of this month, and in Alice Springs, whilst we are not co-located, we share the same building.

CHAIR—The seven sites are where you did not originally have an office but where there could well have been a pre-existing ATSIC office?

Mr Greer—Yes.

CHAIR—There was pre-existing ATSIC presence and not a specific DEST presence.

Mr Greer—Yes, and we have taken the initiative to resource a DEST presence in those areas. Our state managers are working collaboratively with OIPC state managers and ICC managers and other Australian government and state government staff involved in Indigenous affairs. They regularly participate in interagency and bilateral forums in each of the jurisdictions. In the initial implementation phase, DEST has been active in a number of interdepartmental working parties focusing on issues of importance in the shaping of the new arrangements. They included recruitment, communication and training and development for ICC managers. Likewise, we are involved in a range of key policy working groups with all relevant Australian government agencies.

On 3 December last, five new shared responsibility agreements were signed in the Murdi Paaki region, the COAG region for which DEST has lead agency responsibility. They were signed with the Bourke Working Party, the Brewarrina Community Working Party and with the Murdi Paaki Regional Council. The agreements commit all the partners to support initiatives which are consistent with community and regional priorities. I have copies of those if you would like them.

CHAIR—That would be lovely. They would help focus our minds.

Mr Greer—To support the new arrangements, DEST has implemented a number of internal communications and training initiatives and is strongly pressing the message in DEST that Indigenous business is everyone's business as we seek to embed consideration of Indigenous issues in everything that we do. For DEST, an important focus remains the development of whole-of-community and whole-of-school strategies to increase school attendance, to improve literacy and numeracy outcomes for Indigenous young people and to link those with employment and training outcomes. Thank you.

Senator JOHNSTON—I am looking at page 40 of the submission I have from DEST—I think this is the submission we are talking about.

Mr Greer—Yes.

Senator JOHNSTON—Under the heading 'Improving accountability' it says, 'DEST is committed to robust performance monitoring.' I am not sure that you have had to do as much performance monitoring with such an imperative outcome in the past, given that the department has not had this Indigenous outlook. What do you see as the challenges and how are you going to address those challenges so that you can tell us how you are going and so you can show us that this reform has in fact worked?

Mr Greer—While DEST as an agency did not receive or have transferred to it functions which were previously the responsibility of ATSIS, other than the transfer of IATSIS, we have for many years from a mainstream perspective delivered a number of Indigenous specific programs, particularly in relation to Indigenous education. So there is a wealth of experience in dealing with Indigenous communities, Indigenous people and Indigenous students over a number of quadrenniums. Around that, we are on the cusp of entering into new Indigenous education agreements with education providers around the country.

Underpinning that is a strengthened reporting and monitoring framework which identifies key performance measures and performance indicators against the 21 goals of the Aboriginal education policy. Those 21 goals of the Aboriginal education policy are, in a sense, the objects of the Indigenous Education (Targeted Assistance) Act. That is a very robust framework. It requires all providers to report against that array of measures; it provides targets on an annual basis and over a four-year period—targets that we negotiate quite robustly to close the educational divide. We then work with providers to continuously monitor those targets during the course of a year and we report to the parliament on an annual basis through a national report to parliament on Indigenous education and training.

Senator JOHNSTON—The only issue I have with that is that one of the reasons we are doing what we are doing now is that what we have done before has not worked.

Mr Greer—That is correct.

Senator JOHNSTON—What comfort are you going to give me that we will learn from the programs that you talk about and the experience that you have and do something different?

Mr Greer—The government's approach to Indigenous education—and its Indigenous education policy going into this quadrennium—is quite clearly to close the educational divide between Indigenous and non-Indigenous Australians. We would hope to do that over at least two quadrennia.

Senator CARR—We are just simpletons here. Can you give us a year?

CHAIR—What is a quadrennium?

Mr Greer—A quadrennium is four years. We fund on a quadrennium basis.

Senator JOHNSTON—You learn something every day.

Senator CARR—So in eight years time we will have closed the gap in inequality in education in Australia?

Mr Greer—That is the aim.

Senator CARR—The educational divide.

Mr Greer—For instance, in the review of Indigenous education policy in New South Wales, the New South Wales government had set itself to close that gap by 2012, which is two years beyond our aspiration.

Senator CARR—We asked the employment department about whether they had any targets and we could not get that sort of information.

Mr Greer—Those are the policy settings that we are driving. Our approach is to make the mainstream work better for Indigenous people—not only the mainstream education programs of states and territories but our own mainstream programs. It is to redirect resources to programs

that we believe have demonstrably worked and it is to weight available capacity to areas that the government believes have greater relative disadvantage—that is, Indigenous people in remote areas. In that context we are focusing our strategies for the quadrennia on preschool; on equipping young Indigenous children for the transition to formal schooling; on attendance, literacy and numeracy at the schooling level—

Senator JOHNSTON—So, participation rates, attendance, literacy, numeracy—

Mr Greer—on retention to year 12 or its vocational equivalent; on lifting the effectiveness of teacher practice in the classroom for teachers engaging with Indigenous children; and underpinning that with a strengthened monitoring and reporting framework. That is a bit longwinded but that is the context.

Senator JOHNSTON—I am happy with that. How are we going to know that the data that is coming from places that are very remote—probably some of the most remote places in the world—is reliable? What are you going to do to make sure that attendance rates, as told to you, at a primary school in Pungmu are accurate?

Mr Greer—Attendance, for instance, has been included now as a condition of funding not just for Indigenous children but for all children in the recently passed legislation for schools funding. That will require states and territories to work together with us to identify a nationally consistent measure of attendance. It may take a little while over the next 12 months or so to do that and embed it. In the meantime, we already have some attendance measures which give us trends within jurisdictions. So we can track attendance trends within a jurisdiction, but not necessarily across jurisdictions. The national consistency framework processes are the same processes we use to establish and monitor benchmarks in literacy and numeracy and the like. So they are nationally consistent, nationally agreed and nationally implemented.

Senator CARR—My reading of the last higher education triennium report—and you will correct me if I am wrong—is that there was a fall-off in commencements again last year. That is true, is it not? I do not have my paperwork in front of me, but it was something like 4,111 students. Was it something like that?

Mr Greer—That is correct. That was 2003.

Senator CARR—Yes, but that is the last available figure. It fell off again, didn't it?

Mr Greer—Yes.

Senator CARR—And in 2000 it fell off by 15 per cent?

Mr Greer—That is correct.

Senator CARR—What are you doing to change that?

Mr Greer—Let us have a look at those commencement figures. It is quite clear that, whilst university commencements for Indigenous students declined slightly between 2002 and 2003—in fact, the access rate dropped from 1.53 to 1.52 because rates generally dropped—the number

of commencing students increased in New South Wales, Victoria, Queensland and Tasmania. But they decreased significantly in Western Australia and the Northern Territory. We have had in net terms a decrease of 135 between the 4,246 in 2002 and the 4,111 in 2003, but New South Wales, for instance, had an increase of 10 per cent, Victoria had an increase of 16.2 per cent and Queensland had an increase of 2.8 per cent. Western Australian commencements decreased by 24.1 per cent. Likewise, Northern Territory commencements decreased by 19 per cent. It could well be that there are other factors in those regional areas that are working to do that. It may be that there is a buoyant economy and people are opting to take advantage of work opportunities. We were negotiating yesterday with the Queensland education and training department. They were observing similar drop-offs in Indigenous VET participation in Queensland and they were attributing some of that to the buoyant economy in that state.

Senator CARR—Sure. The reason I raise it is that education attainment in terms of this inequality gap has improved across the last 20 years but at an uneven rate. That would be a fair description of it, wouldn't it?

Mr Greer—Yes.

Senator CARR—It has been very uneven. The gap, however, between black Australia and white Australia has grown. The level has grown and the gap has grown. If you compare our achievements in education with international standards for Indigenous peoples, we run a very poor second, don't we?

Mr Greer—If you look at some international measures such as the PISA measures, quite clearly the PISA measures read large give a comforting sense. Our 15-year-olds are competing at the top end with only one or two countries in the world significantly or statistically outperforming us in scientific, reading and mathematical literacy. But if you unpack that, take out the Indigenous cohort and look at Indigenous participation against that PISA measure, we are well to the left of the OECD median.

Senator CARR—That is my point. Education programs have been mainstreamed in this country for many, many years. I do not doubt your sincerity for a moment, Mr Greer. We have known each other for many years, so I would never ever question your sincerity in these matters despite the fact that you have only recently come into this area, but I am concerned that the department's performance with regard to educational programs or Indigenous people is less than satisfactory. Let me give you an example: on 7 April 2003 the then minister for Indigenous affairs, Philip Ruddock, wrote to the Prime Minister commenting upon the reviews of mainstream programming across all portfolios. He said:

> I am pleased to inform you that the portfolio reviews have been completed, with the exception of the Education, Science and Training portfolio. They have been considered by a working group—

and so on and so forth. He went on to say:

> The working group found that the quality of portfolio reviews was generally poor. Almost without exception the portfolio reviews did not consider improvements to the local responsiveness and flexibility of mainstream and Indigenous-specific programs and their coordination with other Commonwealth agencies and state and territory governments at the local level. They have tended to focus on internal human resource management.

I cannot say that about DEST because you did not actually respond. I am wondering why.

Mr Greer—That has exercised our minds as well. The reality is that the specific review that was sought at the end of 2000 was not formally completed, although preliminary mapping was undertaken. At that time, at the end of 2002 when that request was made, arrangements for Indigenous education and schools programs and program guidelines and funding agreements for 2001-04 quadrennium had been completed. The legislation was being passed for the programs for the 2001-04 quadrennium in schools and in Indigenous areas. The new vocational education and training triennial funding negotiations had also been completed at the time that the request had been made. The review was commissioned some time ago and some quite significant changes in Indigenous affairs have since taken place. As I mentioned earlier, DEST has initiated—

Senator CARR—Mr Greer, before you get to the bottom of the brief can I bring you back to the question: why didn't you complete the request from the minister for Indigenous affairs to respond to the review at the date that he asked for it, when every other department did?

Mr Greer—What I am trying to respond to is that that work, although commenced, was not finalised in the sense that the legislation and the capacity to change those programs had been set through the completion of the agreements we had been reaching with states and territories for the quadrennium. What I am saying is that since that time we have moved to do that. We have reviewed the IEDA programs in 2002 and 2003. We have reviewed, in a whole-of-government context, the Indigenous Education Strategic Initiatives Program for this current quadrennium. The schools programs for the current quadrennium have been reviewed to make sure that they address more precisely the particular considerations of Indigenous students. We require, for the first time, Indigenous education statements coming through from providers. Following the review of the higher education area we have increased funding and put stronger focuses around the Indigenous support program. We have introduced Indigenous staff scholarships and given greater access to the Commonwealth learning scholarship programs. We have put in place the Indigenous Higher Education Advisory Council. It is also a reasonable expectation that, as we put in place the new VET arrangements and reform agenda for going on, the issues of Indigenous people will be well and truly accommodated in that. I am just trying to put a context around it.

Senator CARR—I understand the context. Basically what it indicates to me is that you are doing your own thing in the department—not you personally, Mr Greer, because I think you were in the VET section at the time. Basically the department decided to do its own thing.

Mr Greer—I am not sure that would be a fair construct.

Senator CARR—Who was the secretary at the time? Was it still Mr Sedgwick or was Dr Shergold the secretary at the time?

Mr Greer—I think that may have been in Mr Sedgwick's period.

Senator CARR—Does that account for it?

Mr Greer—No, not at all. As I say, there was preliminary work done here. I have tried to set the context of that. I am not sure I can add much more.

Senator CARR—You are the lead agency for the Murdi Paaki COAG trial. This committee heard evidence at its hearing earlier this week on 1 February—and I urge you to read the transcript—where the chairman of the Murdi Paaki Regional Council, Mr William (Sam) Jeffries, made some pretty strong criticisms of, first of all, the COAG trial itself, and particularly of the department of education. I will ask you to address those matters. He said, for instance, that there was considerable confusion within the government and the bureaucracy. He said that there were a lot of mixed messages and that there was uncertainty around the new arrangements in relation to the regional structures. He was particularly concerned about what would happen given the disbandment of the regional councils after 1 July. He said that many proposals come forward and:

When it gets to the senior bureaucratic level it seems to just get lost in the maze. One of the things that disappoints me is that there is no coordination of the funding. There is no pooled funding—

which is something they had talked about when the original trial was set up. He said there was no planning and that it was a project based submissions model of funding which left no opportunity for longer term strategic examination of issues. He also went on to say that in a conversation with Dr Shergold when he was secretary of the department when it was originally established—now he is secretary of PM&C—they talked about new arrangements and the development of the COAG trials. He said he was disappointed with the outcome and that there were some unfulfilled expectations. He also went on to say that there was no sheriff to monitor performance, and he was speaking directly about DEST officials. All of that can be verified or otherwise with the transcript of proceedings. Have you had any of those criticisms put to you, Mr Greer?

Mr Greer—I had heard that some comments had been made. I have not had the opportunity to see the transcript. I do not think it was available at that stage. Notwithstanding that, my understanding is that there was a context to some of Mr Jeffries's concerns. I think we have all been a bit frustrated about timing and so forth. This is a trial between the three key partners—Mr Jeffries as the community representative, the New South Wales Department of Education and Training as the state lead agency, and our department—to see how we can better join up our services and deliver services. One of the key elements of that, and a strong message coming through, is that we have to avoid a top-down approach. We have to be able to respond to what the communities themselves are identifying in their communities as the relevant priorities.

In that sense, for the last 18 months or so we have been working very closely with each of the communities to develop community working plans across the 16 communities. Prior to Christmas, three of those—in Bourke, Ivanhoe and Wentworth—had been completed. We have another six—Brewarrina, Collarenebri, Enoggera, Goodooga, Walgett and Weilmoringle—which should be ready to be ratified by the end of February, and a further one in Wilcannia, where you have a final draft plan. It seems that, once we have this sense coming bottom-up from communities, their coming to governments collectively and saying, 'These are the identified priorities,' is when the real challenge starts about how joined-up services can respond to that.

Senator CARR—That is the point. Mr Jeffries is saying that proposals from the community get lost in a bureaucratic maze.

Mr Greer—But what I am saying is that, until we have these work plans coming up, we do not know what the proposals from all communities are. What we have been able to do is respond in Bourke and Brewarrina to a couple of initiatives that came up around community action patrols, education and so forth.

Senator CARR—I understand that. I appreciate the SRAs are very different from the Mulan type of arrangement. It is a very different outcome. I accept that and I do appreciate that you are treating people with a great deal more dignity in New South Wales than you are in other states. However, the question still arises: if this is the regional council, which you have an agreement with, what are you going to do when the regional council is gone, particularly given that the regional council's role surely is to provide a regional view rather than try to rely upon small groups of people to get an assessment for which you will find, surely, constant disagreement and find it extremely difficult to get a consensual view?

Mr Greer—We will continue to be working with the community working parties in each of those 16 regions for the duration of the trial. Through the agreements and arrangements that we have, we have been supporting the governance for those. Indeed, to go back to Mr Jeffries's comments, when these were announced he was saying, 'Strong, vibrant community governance is one of the keys to Indigenous people taking more control of their lives. We are working hard here in the region in a productive partnership with government to support that development and go one step further to a new model of regional representation. We know this can work, but it will only work if everyone plays their part, and we are endeavouring to play a part.'

Senator CARR—He has clearly changed his tune.

Mr Greer—Similarly, at that meeting the chair of the Bourke community working party is reported as saying, 'This is a new way of doing business with Aboriginal people and we have control of the way our destiny is shaped. We have total control of that.' The chair of the Brewarrina community working party at that same launch said, 'This is a step in the right direction for our people. We are not working top-down; we are working bottom-up. It is giving our people a chance to do what they want for their own community.' Some of our shared frustration—

Senator CROSSIN—That is to pressure the government to keep the regional councils and the working parties, isn't it, because it gives you a formalised democratic structure to work with. I suppose the view that we are putting to you is that that will all slip away after 1 July if there is no formal recognition or legality about it in the legislation we are considering.

Mr Greer—We will endeavour to continue to work with these regional community working parties.

Senator CARR—Who is going to fund them?

Mr Greer—I think they are issues not so much for us as a department as for the central agencies here.

Senator CARR—When is the evaluation of the COAG trial that you are the lead agency for going to be undertaken?

Mr Greer—Through the steering committee for the Murdi Paaki trial—and that includes Mr Jeffries, the New South Wales department and us—we have formulated an evaluation framework and a reporting and monitoring framework which is built largely around the COAG indicators of relevant disadvantage as they relate to that. The New South Wales Department of Aboriginal Affairs is bringing that aspect together. My sense is that we will start evaluating as we get these plans through and start responding to them. That will be what we are doing within the—

Senator CARR—I will be a little bit more precise than that. When do you expect the review to start?

Mr Greer—I would need to check with the steering committee, but it would be my expectation that the start of a review could commence this year, particularly as you are getting a critical mass of community working party plans coming forward.

Senator CARR—Who will do the review?

Mr Greer—I am trying to think back. I think that both we and the New South Wales department, with agreement from the community, have agreed to commission it. I am sure we have set aside some funding.

Senator CARR—Mr Greer, we have known each other a long time. You are going to have to be a bit more precise than that.

Mr Greer—The last steering committee meeting we had was in November.

Senator CARR—Do you want to take it on notice?

Mr Greer—If I could, that would be useful.

CHAIR—Is the approach or the agreement process a public document? Can you take that on notice as well?

Mr Greer—I will certainly take that on notice. If the other parties are comfortable with that, we are happy to share that document.

CHAIR—If it is public, we would like to have it. That would be good.

Senator CARR—I have a lot of questions on notice because clearly, as you know, that is how I work as well.

Mr Greer—Thank you, Senator.

Senator CROSSIN—I have lots of questions, but I am going to save them for estimates and our Senate inquiry, when we might get right down to the bottom of some of this. I want to ask you how the ICC will physically work. I think we have asked this of some of the other agencies.

But, in the case of somewhere like Darwin, where your DEST office is located in the Darwin CBD but the ICC is out at Casuarina, is there a plan to, say, take your Indigenous branch from there and locate it to the ICC or take one staff person—

Mr Greer—No, it is not the intent to co-locate in those urban centres, whereas we will be co-locating in regional and remote centres. For instance, in Katherine we are already co-located with the ICC. Similarly, in Tennant Creek we are already co-located. In Alice Springs, whilst we are not co-located, we are in the same building but on another floor.

Senator CROSSIN—Yes, I know. You are not going to physically relocate someone, say, in a place like Darwin?

Mr Greer—Not in Darwin; not in the urban ICCs.

Senator CROSSIN—Some of the agencies have chosen to do that, now that urban ICCs have been established.

Mr Greer—Rather than co-locate in those areas, I think other agencies may have been putting in what they term 'solution brokers', as distinct from a formal co-location.

CHAIR—A 'solution broker' is a formal title.

Mr Greer—I understand that is the—

Senator CROSSIN—No, I think we had evidence this morning that there might have been one or two people from, say, DEWR or FaCS being physically located with the ICC.

Mr Greer—I am not fully au fait—

Senator CROSSIN—So, you are telling me that in the urban centres around this country, your DEST staff in relation to Indigenous programs will pretty much do what they have always been doing. Is that right?

Mr Greer—No. The intent is not to co-locate in the urban centres but to work very closely with ICCs in those areas, as we do with the ICC managers, and particularly now with the state OIPC managers who are in place. Those arrangements are working. I was in Darwin only last week talking to our state manager there and to his senior staff, and the sense I got from that is the relationship, particularly in the Northern Territory, between DEST, the ICCs and the 0IPC is working quite harmoniously.

Senator CROSSIN—They are probably used to it more than anywhere else, I suppose. I will save my questions for estimates, when I have a bit more time.

CHAIR—Senator Scullion.

Senator SCULLION—I have a question supplementary to my colleague from the Territory. We have had a wide body of evidence that talks about some of the weaknesses in the proposed so-called new arrangements. It is fairly apparent that we are depending a lot on the ICCs being a

one-stop shop. It is culturally appropriate both to the staff and the clientele to make sure that works. I understand you are saying that, because you did not have the provision of Indigenous programs, you are not actually in receipt of any particular program. So your roll-out and your involvement in ICCs is a new process. It is pretty self-evident, but we have had quite a lot of evidence stressing how important it is to have not only that presence but presence of a type that is going to make a difference. Clearly, the ideal circumstance is someone with a great deal of experience in dealing with Indigenous people and preferably somebody of Indigenous background locally and regionally. What have you done in terms of your recruitment around the country to ensure that those parameters are met?

Mr Greer—As I said earlier in respect to Senator Johnston's question, we traditionally have had extensive exposure and experience in dealing with Indigenous communities and Indigenous people. We have a network of 41 either regional or district offices out there serving communities. Indeed, if we look at our Indigenous profile, overall as a percentage of the department some 11 per cent of our staff are Indigenous. If you break that down and look just at our state and the Territory offices, nearly 45 per cent of DEST staff are Indigenous. That varies. If you go to the Northern Territory, 51 per cent of our staff are Indigenous; in Queensland it is 63 per cent; and in New South Wales 50 per cent of our staff are Indigenous. So we have a strong background and record on that.

In preparation for these changes, we have been quite proactive over the last 18 months in bringing together change management programs for our district and network staff to participate in. We have formed what we call a change management coalition, of which we had three last year, where we tend to bring together if not all, representatives of all, of our regional and district offices to work through policy settings, program design et cetera. So we have a level of comfort. While we recognise that is a process of continuous improvement, we are pulling our weight in that area.

Senator SCULLION—After that answer, so do I. Thank you.

CHAIR—Thank you very much Mr Greer and Ms Smith. We did not get a lot of questions to you, Ms Smith. In terms of the process there are a significant number of questions that people are putting on notice because of time constraints.

Senator CROSSIN—We have plenty coming in estimates. Bring the gang—we will not let you down.

CHAIR—There are a number of documents you have said you will provide to us. If there is any problem with responding next week to the questions we have put on notice, could you please let us know so we can build that in.

Mr Greer—Certainly.

CHAIR—Thank you very much

[2.14 p.m.]

WATSON, Mr Patrick Gregory, Acting Chief Executive Officer, Aboriginal and Torres Strait Islander Services

GIBBONS, Mr Wayne, Associate Secretary, Office of Indigenous Policy Coordination

HAWGOOD, Ms Dianne, Group Manager Indigenous Coordination and Strategy Group, Office of Indigenous Policy Coordination

VAN BEURDEN, Mr John Charles, Consultant, Office of Indigenous Policy Coordination

VAUGHAN, Mr Peter Eric, Group Manager Land and Resources, Office of Indigenous Policy Coordination

YATES, Mr Ralph Bernard, Deputy Secretary, Office of Indigenous Policy Coordination

CHAIR—I welcome officers from the Office of Indigenous Policy Coordination and the Aboriginal and Torres Strait Islander Services. The standard process is that people are given an opportunity to make a short statement or to focus the discussion and then we go to questions from senators. There are a number of standard questions we are putting on notice with all the departments, which you will get. I also know that, because of the limitations of time this afternoon, there will be other questions to come out of the session. With that position known, who would like to start?

Mr Gibbons—We do not have a statement.

Senator RIDGEWAY—I want to go to a few issues. No doubt you are familiar with some of the proceedings of the past week. My first question deals with the justification that is used by the government to put in place new arrangements. Are you aware of any evaluation or empirical data that demonstrates that there is a need to dismantle or abolish ATSIC in the way that that is being done? We have not seen that. There certainly have not been any documents provided, even on the COAG trials, or any evaluation. I wonder whether you might provide some information on the justification.

Mr Gibbons—There was a review of ATSIC, which the government took into account before it took its decision to move to abolish ATSIC—or, more significantly I think, to move to change the way it provides assistance and support over and above standard entitlements to Indigenous Australians. There was also a widespread consensus that 30 years of practice was not producing results and it was a time for change. So there were a number of factors behind the government's decision; there was no single empirical study. Our submission to this committee does provide in the opening sections, more fully than I have just provided, some of the rationale of the government.

Senator RIDGEWAY—I am sure you are familiar with the recent announcement by the Productivity Commission on some of the research that they have undertaken, and work

undertaken by the Australian National University, which seems to refute pretty much the lack of progress in work undertaken by ATSIC, more particularly. It also demonstrates that, where there have been failures, those failures have generally been with lead agencies; and where there have been inroads, the successful programs, at least in Indigenous affairs—as far as I can tell from data provided—have been by those programs administered by ATSIC. Can you explain to me the rationale that justifies a decision being taken to abolish an organisation that has by and large been successful—setting aside the politics—when inroads have not been made by lead agencies.

Mr Yates—I think the evidence indicates that no-one has been getting it right. There has been progress made in some areas and not in others. There has been absolute progress, but not necessarily relative progress to the non-Indigenous population, in various parts of outcomes that have been achieved. I do not think it is fair to say that the evidence suggests that the mainstream departments have been the area of failure and ATSIC has been an area of success. I think there has been a very mixed result demonstrated in the evidence from various investigations and reviews. The COAG based Productivity Commission work on overcoming Indigenous disadvantage highlighted just how big the challenge was—how significant a shift in the way government deals with Indigenous business has to be if we are going to make better progress in narrowing the outcomes between Indigenous and non-Indigenous Australians. I guess that informed the government's approach to adopt a quite different model and not to have a separate Indigenous organisation, namely ATSIC, managing some part of the program suite with other departments working with their specific elements, but rather to try to draw them together in a new whole-of-government framework. The size of the challenge has really demanded a quite radical shift in how we had approached these issues from the side of government over a long period of time.

Senator RIDGEWAY—I can appreciate the response, but if you apply consistency in principle it would seem to me that a decision taken to abolish one ought to be applied to the others, and that has not been the case. I accept that there are political reasons why that has been done. But separate to that there is the whole question then of the creation of Indigenous coordination centres. You would agree, no doubt, that the way in which inroads can be made is through the direct involvement of those affected, giving them an opportunity to ensure that community expectations or aspirations are represented in some form. It has become apparent to the committee over the course of this week that even witnesses from the lead agencies are not wholly clear on what the new arrangements are and this is leaving me with the impression of confusion. Certainly from the other side, from Indigenous people, there does not seem to be consistency in terms of ICCs being able to harness a common vision between lead agencies that have different functions and purposes. That is coming up with the transfer of property—more particularly land—but also with questions on agreements being struck. I wonder how you respond to that. How are Indigenous views incorporated or met as part of the new arrangements through ICCs?

Mr Gibbons—First, I think we should not underestimate the significance of the change and the enormity of the task of changing the culture of government and delivery arrangements that have been in place for many decades. It is not going to happen overnight. We are making a start this year. At the beginning of the year when the arrangements were commenced we made it very clear that through this year we were securing a continuation of funding on the basis of arrangements that existed last year and that we would be working progressively from a small base to introduce the new methodology. We are targeting 50 to 80 shared responsibilities, which

are the foundation of the new arrangements, in a number of communities. In those communities where we are engaging on those matters I do not believe there is confusion. There are people who are concerned about the new arrangements; they do not like the new arrangements. There are staff who are troubled about the new arrangements. This is a big change process and it is going to take some time to work through all of that.

But the bottom line is that the approach inherent in the new model is a commitment from government to architect Commonwealth and, if possible, state assistance with the people affected from the ground up rather than the approach of the past, which had it distributed by many players in an ad hoc way at times, often through gatekeepers. I can quote you an example of one small community of 800 people which got funding through 52 different grants from 12 or 15 different agencies of government with different conditions attached to them and different reporting arrangements. As part of the new arrangements we are now working to translate that into one integrated investment strategy with a support strategy that draws together two governments.

Senator RIDGEWAY—On that basis then I want to go to the question of shared responsibility agreements. Surely you are not saying that the benchmark then in terms of new arrangements would be established by the Mulan agreement in Western Australia. Is it fair or reasonable, for example, that on one hand the government is seen to be discharging its responsibilities or its obligations to the community by the provision of two petrol pumps and the community is left with the need to change its behaviour in order to reduce instances of trachoma? Can you explain to me how it is that that establishes a good precedent in terms of shared responsibility agreements or new arrangements being put in place irrespective of whether the community consents to them or not? Is it reasonable to assume that that is the benchmark and is it appropriate that it be done in that way?

Mr Gibbons—It is illustrative of the methodology. It is a unique situation, as all SRAs will be unique to the circumstances of the community in which they operate. In the Mulan context, there are several shared responsibility arrangements providing various forms of assistance with different arrangements attached to them. All of them have been agreed with the community. In the case of the petrol pump—which is not an entitlement, it is discretionary assistance on the part of the government—the government made it clear that it was prepared to consider an investment if the community thought about how it might tackle some of the problems that it has that only it can deal with. They met with their medical assistants, their resident nurse, who had been concerned for some time, I understand, as had the community, about the problem of trachoma. It is a highly infectious disease. Notwithstanding the treatment available, there were still problems in that community and they wanted to tackle that, which is completely understandable. They proposed the measures that formed that shared responsibility agreement. We did not suggest they tackle that area particularly. They went away and thought about it. They took advice and they proposed that to us. That is illustrative of the methodology. We are quite happy to support their interest in a petrol pump because it adds a convenience to the community and it adds potential income from passing tourists on the Canning stock route. We asked them to consider how they might help themselves and they came up with a solution.

We are taking that approach in other communities as well. We are not imposing our solutions to their problems; we are trying to encourage them to develop their own approaches and we will help support those approaches.

Senator RIDGEWAY—Does that mean, then, as part of that agreement or any other agreement that might exist in that community, that the main road itself is going to be sealed as a way of dealing with the question of the incidence of trachoma?

Mr Gibbons—My understanding is that the major problem with trachoma in that community is the infectious transmission. It is up to the community to come to us with the priorities that they think are relevant to their circumstances. We will make suggestions but we are not going to impose it on them. They have identified a number of measures—

Senator RIDGEWAY—But surely you have an obligation to at least seek advice even from the Department of Health as to what are effective ways of dealing with the question of trachoma. It seems to me—

Mr Gibbons—And in this circumstance the information supported the views taken by the community. They have proposed other measures to help deal with problems in their community. As I recall, they wanted lights and restoration of a basketball court. We are happy to do that provided the community organises use of those facilities, and they were prepared to do that. It is not a one-way process, it is a two-way process, and it starts at the bottom with the people who are affected.

Senator RIDGEWAY—I am told I have got only one more question. I want to ask about appropriate ways of dealing with the question of transition. I have never had much to do with you, Mr Gibbons, and you strike me as a fair and reasonable man. Do you think the following is appropriate, in the context of dealing with the holders of statutory office? I am told that at the moment there are potentially one, if not more, commissioners that are driving vehicles that are currently unregistered as a result of arrangements in relation to ATSIC and ATSIS. Irrespective of the politics involved, is that a decent way to be treating people that, come midnight on 30 June, will no longer hold that office? Even separate from the question of personalities, isn't there also an exposure in terms of liability? God forbid that any one of these people might be injured or, worse still, killed in relation to a road accident where we have got a vehicle that is unregistered because of the intransigence on the part of the government to carry out its obligations. Is that fair and reasonable?

Mr Gibbons—If it were true as you describe, I would be concerned. My understanding is that one commissioner reported that their registration of their publicly funded vehicle had expired on the day, and it was immediately attended to. I, along with other senior public officials, have a publicly funded car. We take upon ourselves the duty to ensure that the registration does not expire. You get notice a month before—

Senator CARR—Do you personally go down and pay your registration?

Mr Gibbons—No. But, if my replacement registration did not arrived within a few weeks before the registration, I would inquire about it. I would not leave it until the day of expiry to make the inquiry.

Senator RIDGEWAY—If there is no administration, how does it occur?

Mr Gibbons—There is administration. Maybe Mr Watson can answer that.

Senator RIDGEWAY—How did this occur? How did it get to the day of being unregistered?

Mr Watson—Perhaps I could explain. All of the vehicles that are provided to commissioners and that are also made available to regional council chairs are provided through an organisation called ORIX, which ATSIC and ATSIS has contracted with over a number of years. The vehicles are owned by ORIX. They are leased from ORIX. The registrations remain with ORIX, and it is up to that company to renew the registrations each year.

On occasion when, through the company's processes, they omit to renew the registration, we are then reliant, as Mr Gibbons has pointed out, on the driver of the vehicle to notify us that there is a problem. In this case, the commissioner notified us on the day that the registration was lapsing. We contacted the company and they made good the registration that day and ensured that the vehicle was covered. I would add that it is obviously in the interests of the company to ensure that vehicles are maintained as registered, because the company also carries the insurance. It does them no good at all to have a car on the streets which is not registered and which is potentially not insured being driven by a Commonwealth officer.

Senator NETTLE—We heard evidence this morning from Mr Clark, who tabled a number of letters between himself and you about his capacity to seek legal advice. From the evidence that we heard this morning, what is the legal status of the ATSIC-ATSIS agreement?

Mr Watson—I am obviously not privy to what was tabled this morning; nor am I privy to the discussion which occurred. In terms of the ATSIC-ATSIS agreement, my view is that that remains an agreement in place between the two organisations and that we, as ATSIS, are adhering to the requirements of that agreement.

Senator NETTLE—Among the correspondence tabled was a letter written by you on 17 January in which you cite a clause from the ATSIC-ATSIS agreement. The clause relates to the capacity to seek legal advice. It says that the CEO of ATSIC will commission that legal advice on behalf of the chair.

Mr Watson—CEO of ATSIS?

Senator NETTLE—No. In the agreement it says 'ATSIC'. I understand this is done at a time when there is no longer a CEO of ATSIC. What is your understanding of the process by which the chair of ATSIC is therefore able to seek legal advice?

Mr Watson—Not having the correspondence in front of me, I will do my best to recall the essence of that letter. Basically, under the agreement, there is a requirement for ATSIS to provide access to legal advice, unless there is a conflict of interest. I took the view that, in relation to the legal advice that was being sought, which went to the disposal of assets, there was potentially a conflict of interest between me in my role as a Commonwealth officer representing the Commonwealth and what was being proposed by ATSIC as a CAC agency. I did not feel that, again, in my responsibility as the acting CEO of ATSIS and in my responsibilities under the Financial Management and Accountability Act, it would be an appropriate use of Commonwealth resources to fund legal advice which potentially put the Commonwealth and ATSIC at odds over what was being proposed.

Senator NETTLE—I understand the conflict of interest you have identified. What avenue do you think then is open to the chair of ATSIC to seek legal advice?

Mr Watson—The nature of the letter went on to say that normally, under the agreement, they would need to approach the CEO of ATSIC. There was no CEO of ATSIC in place. I recall that Mr Clark then indicated by letter that he was going to take advice from a firm of solicitors in Melbourne. I wrote back to clarify the fact that while he might want to seek that advice I just wanted to make it clear that the Commonwealth, through ATSIS, would not be paying for that legal advice.

Senator NETTLE—We have before us the detail of what is in the letters and you have the experience of having gone through it. We have an agreement which says, 'This is the way you seek legal advice where there is a disagreement: you do it through the CEO of ATSIC.' But there was not a CEO of ATSIC at the time. So how do we resolve this issue of a person who is an office holder within the Commonwealth wanting to seek that legal advice? What avenues are open to them? I understand the circumstances, but where is an answer for them about how they get legal advice?

Mr Watson—I am not sure that is a question I can answer. My responsibilities were in relation to what was dictated within the agreement. The agreement made provision that, if I thought there was a conflict of interest, it went in a particular direction. Whether or not there is a CEO of ATSIC in place at the time is not a responsibility that I have or that I can have any influence over.

Senator NETTLE—If it is not your responsibility to determine the path that the chair follows to get that legal advice, whose responsibility is it?

Mr Watson—The 'chair' is the chairman of an organisation which exists. As chair of that organisation he had already indicated to me that he was going to approach a firm of solicitors in Melbourne, and I assumed that was the direction he was going to take.

Senator NETTLE—But how was that legal advice paid for? What is your advice to the chair about how that should be paid for? If you see it not as your responsibility, then whose responsibility is it to ensure that legal advice can be paid for?

Mr Watson—You are now asking a question about the legalities of whether the chair can commit an organisation, through a firm of solicitors, to the seeking of legal advice and whether that is an appropriate call for the chair to make, and that is not something I can answer.

Senator NETTLE—So who then would answer the question about whether or not the chair is able to seek legal advice?

Senator RIDGEWAY—To follow on from that, wouldn't it be true that it does not really matter whether there is a CEO of ATSIC? Isn't it true that in a period of transition, where new arrangements are being put in place, if you take the view that you inherit a legal right to deal with questions of property you must also inherit the administrative function that goes with that? How do you make an artificial distinction between them?

Mr Watson—I do not think I am making an artificial distinction between them. Under the agreement there are certainly obligations for ATSIS related to dealing with matters of property and dealing with assets in general. The agreement provides exclusive use of assets to ATSIS through the agreement. In this particular case there is a particular clause that covers the provision of legal advice and—as I have stated now a couple of times—that says that the recourse, where there is a conflict of interest, is to consult with the CEO of ATSIC.

Senator RIDGEWAY—So have you obtained legal advice. Are you able to table that here today?

Mr Watson—Legal advice in what context?

Senator RIDGEWAY—A clarification of what you see as being a conflict of interest or the question of whether you also inherit administrative obligations as a result of transitionary arrangements.

Mr Watson—I took internal legal advice which suggested to me that I needed to write to the chairman indicating that the conditions within the agreement needed to be applied and advising him that I could not provide the legal advice he sought, due to a potential conflict of interest. That was the advice I took and that was the letter I wrote.

Senator NETTLE—Thanks.

Senator CARR—What is the cost of the appeal, Mr Gibbons, that the government is running against the decision of the courts with regard to Mr Clark's dismissal?

Mr Gibbons—I am sorry, I missed the first part.

Senator CARR—What are the legal costs to date of the appeal that you are launching against the recent court case, decided in favour of Mr Clark, on the issue of his dismissal?

Mr Gibbons—The government is launching an appeal against the decision, not me.

Senator CARR—Please accept my apologies. I am referring to you as representing the Commonwealth here before the committee.

Mr Gibbons—I would have to take that on notice. I do not know.

Senator CARR—A series of allegations have been put to this committee today concerning a trip that a number of officials took as part of a delegation to Stockholm on 7 October. Given that they have been put to this committee, would you take questions on that? Do you want to take them now or on notice? Is the officer at the table able to help us?

Mr Vaughan—Yes, possibly I can.

Senator CARR—Thank you. Was there a trip to Stockholm last year—in October, was it?

Mr Vaughan—Late September, early October.

Senator CARR—How many people made up that delegation?

Mr Vaughan—There were eight members of the Indigenous delegation plus the spouse of one of them. Two Commonwealth officials also went to Stockholm to assist the embassy with the arrangements.

Senator CARR—Are we able to get a list of the names of the people on that delegation and of the officials who were in attendance?

Mr Vaughan—Yes.

Senator CARR—Thank you. Do you have that readily available? If you could just give us the list, it would be helpful.

Mr Vaughan—I will give it to the secretary.

Senator CARR—How many of the delegation were Indigenous?

Senator SCULLION—I think I can explain a bit, in the context of the inquiry.

Senator CARR—I know—

Senator SCULLION—I understand. It is just a reminder that it is not estimates. The issue that this committee is interested in is the application of the ATSIC bill. The trip to Sweden—

Senator CROSSIN—That is somewhere to start. ATSIC was—

Senator SCULLION—I would like to put my protest on record: I do not think this is appropriate in this particular forum. We have estimates in a week, we are trying to get to the bottom of some issues about the replacement for ATSIC and I think we should be concentrating on that rather than this diversionary process.

Senator RIDGEWAY—I thought it went to the question of justifying why the government made the decision to abolish ATSIC—

Senator SCULLION—It was one of a suite of questions.

Senator RIDGEWAY—in relation to ATSIC commissioners.

Senator SCULLION—You can understand why I find it a little bit difficult to see the connection, Senator Carr.

CHAIR—Senator Scullion, I am waiting for Senator Carr's response.

Senator CARR—Senator Scullion, you are entitled to raise objections, but fundamental questions have been raised in evidence here by these officers about the reasons ATSIC was knocked over. The submissions highlight that there was a list of reasons following the ATSIC

review. The list of submissions listed in these officers' report is fundamentally different from the list of key recommendations in the ATSIC report following the same ATSIC review. They are fundamentally different views of the world. One of the questions that these officers have been raising, and the government has been raising publicly, is the use of public funds.

CHAIR—Senator Carr, you have five minutes on this issue.

Senator CARR—Then could you tell me, Mr Vaughan: were any state public servants part of the delegation?

Mr Vaughan—No.

Senator CARR—Thank you. When was the list of delegates to go to Stockholm finalised?

Mr Vaughan—The list was finalised by the Kimberley Aboriginal Law and Cultural Centre following a meeting at Fitzroy Crossing earlier in the year. We contracted the cultural centre to organise the delegation and make the administrative arrangements and support for them and they finalised that list shortly before the delegation was due to depart.

Senator CARR—Were there any cancellations on that list that was prepared by the Kimberley group?

Mr Vaughan—Yes. There were originally eight people plus a support officer from KALACC. One of the eight fell ill and withdrew about 24 hours before the flight was due to depart.

Senator CARR—So how was a replacement found?

Mr Vaughan—There was no replacement.

Senator CARR—Can you tell me what the total cost of the delegation was?

Mr Vaughan—The cost of the contract between KALACC and the office was of the order of approximately $145,000 for the whole project.

Senator CARR—Was that the total cost?

Mr Vaughan—It is about $148,000 in the contract. We have paid out about $145,000 so far. There is a contingency provision for a possible outstanding account.

Senator CARR—Can you give me a breakdown of the expenditures for those moneys?

Mr Vaughan—I can provide a breakdown of the figures in the original agreement.

Senator CARR—Thank you. What was the purpose of the delegation?

Mr Vaughan—To accept the handover of some ancestral remains from a Swedish institution and to bring them back to Australia.

Senator CARR—When did that occur?

Mr Vaughan—The handover and the repatriation occurred between 29 September and 6 October.

Senator CARR—Mr Gibbons, how many senior officers within your agency would you say are Indigenous?

Mr Gibbons—OIPC are quite pleased with the number of Indigenous staff we have. I think the service average is 2.5 per cent. We have 40 per cent Indigenous staff. Among the ranks of the SES we have two band 2 officers, three band 1s—although two of them are currently on extended leave—and we have a range of Indigenous staff in key management positions and the EL grades below that.

Senator CARR—That is five SES officers. Is that right?

Mr Gibbons—Yes.

Senator CARR—How many SES officers do you have?

Mr Gibbons—I need to count them.

Senator CARR—It is put to me, through the *Indigenous Times* in an article that appeared on 20 January, that 65 per cent of ATSIC senior officers were Aboriginal or Torres Strait Islanders. How does your rate compare?

Mr Gibbons—I suspect it is less than that, but my organisation is very different to ATSIC. ATSIC was basically a services organisation involved in program administration. My organisation is very much a central coordination agency with a requirement to provide very significant performance analysis and budget coordination roles. The recruitment processes in OIPC followed the standard Public Service approach—that is, the SES recruitment overseen by the Public Service Commissioner. Merit was the only criterion for selection against the requirements of the position. I think, in those circumstances, we have done very well.

Senator CARR—Do you think that the employment of senior executive officers under ATSIC was done on any other basis than merit?

Mr Gibbons—I am not commenting on that; I am talking about OIPC.

Senator CARR—Given that the *State of the Service report* by the Public Service Commission has highlighted the decline in the numbers of Indigenous people employed in the Australian Public Service, what action are you taking to try to lift the level of employment in agencies administering Indigenous programs?

Mr Gibbons—We are not involved directly in that. As I said at the outset, we are showing the way with a 40 per cent Indigenous staff rate, which is only, as I recall, about three per cent or five per cent less than ATSIC had. But we are working with the Public Service Commissioner,

and Mr Yates might like to provide some more information about the cooperation we have with the commissioner on this issue.

Mr Yates—As part of the transition that started in the middle of last year, additional resources were provided to the Public Service Commission specifically to strengthen its efforts in the promotion of Indigenous employment strategies across the Australian Public Service. They are playing a particular oversight role in the transition and are looking at the experience of people who have left ATSIS and who have joined the range of other organisations. They are establishing a steering group on which OIPC will have representation that is aimed at identifying ways and means whereby the decline that has been occurring in Indigenous employment in the service can be turned around. The *State of the Service report* that most recently deals with this issue points to one of the factors bearing on this as being the reduction in recruitment at the lower levels of the Public Service, which have traditionally been a key source of engagement for Indigenous staff. Those sorts of underlying factors are influencing the drop in the share of Indigenous employment in the service as a whole. We will be working actively with the Public Service Commission and with other agencies to see what initiatives can be taken to try and turn that round.

Senator CARR—I am led to believe that with the new administrative arrangements there has been an exodus of officers from the service—that is, officers formerly working with ATSIC and officers now working with different agencies. Do you have any advice to provide this committee with in regard to the numbers of Indigenous people who have left?

Mr Yates—We sought to anticipate that and sought some advice from the Public Service Commission on that matter. They have only some preliminary information, which relates to the first six months or so of this transition. As I understand it, the separation rate that has been experienced among that group of people is lower than the average separation rate that has occurred across the service as a whole. That suggests that there has not been some exceptional departure of those staff who have been moved from ATSIC or ATSIS to the range of Commonwealth agencies that are now responsible for the Indigenous programs.

Senator CARR—What is the difference in the rates of separation?

Mr Yates—I will take that on notice and give you a more accurate figure.

Senator CARR—Do you anticipate an increase in the levels of employment of Indigenous people with these new arrangements?

Mr Yates—The decisions that are ultimately taken are those of individual agencies. With the additional effort that is being made to focus on finding channels for both recruitment and career development for Indigenous Australians employed in the Public Service on a merit basis, I would hope that we might see some change over time. But that is going to be influenced by the rate of new recruitment, for example. If there is not any new recruitment happening then the opportunities for people to come in will be limited. But certainly there is a commitment to strengthen the efforts that are being taken within agencies to address that issue.

Senator CARR—That does not give me a lot of comfort, if I might say. It is a, 'We'll have to wait and see,' sort of answer. You also say, though, that there will be increased levels of accountability under these new arrangements. How will that occur?

Mr Yates—There are a number of dimensions to that, I think. There is a political and a bureaucratic level. The Ministerial Task Force on Indigenous Affairs that has been established constitutes a collective commitment by the relevant group of ministers to ensure that the directions of the new arrangements achieve the purposes that the government has established them for. Below that, the secretaries are represented on the secretaries' group on Indigenous affairs. They advise ministers and are responsible and accountable in regard to the performance of their own agencies in the management of the programs they have inherited and also of the mainstream programs that they are responsible for so as to achieve better outcomes for Indigenous Australians.

Below that there is a strengthening of a number of mechanisms to report more transparently and comprehensively on the performance of the Commonwealth. The role of the Office of Evaluation and Audit, which is now operating from the Department of Finance and Administration, will be expanded under the legislation that you are considering. The Office of Indigenous Policy Coordination itself will be expanding the work of performance monitoring and evaluation and preparing for the secretaries' group an annual report on the performance of Indigenous programs. They, of course, will be complementing the more established mechanisms of the Audit Office and various other entities, including the Social Justice Commissioner, who will be providing reports on these sorts of matters.

Senator CARR—Is it the case that the OEA will not actually be given the capacity to evaluate the impact of mainstream programs on Indigenous outcomes?

Mr Yates—As I understand it, the legislation envisages that the OEA's primary focus will be on Indigenous specific programs.

Senator CARR—But what about the mainstream programs?

Mr Yates—The Auditor-General carries that brief, as I understand it.

Senator CARR—I raise that because you are saying this is a key instrument for improved accountability to the parliament, which is a worthy objective. But it does not actually deal with mainstream programs, and you are mainstreaming programs. I am just wondering how that objective can be met.

Mr Yates—The term 'mainstreaming programs' I think is a bit misleading. The Indigenous specific programs are not disappearing. They are not being tipped into mainstream programs, thereby obliterating those Indigenous specific programs. They are continuing. Indeed, we will be tracking the continued operation of the resources that were transferred out of ATSIS to ensure that they continue to be applied to Indigenous purposes. So the fact that the actual programs are being managed by mainstream departments does not imply that they will just be stuck in under a mainstream program heading and the OEA will have nothing to do. Those programs will continue to work and operate as Indigenous specific programs.

Senator CARR—If they are Indigenous specific now?

Mr Yates—Those resources will continue to be dedicated to Indigenous specific purposes. That is not to say that they will be locked into the current spending on a particular program in a particular area. That is likely to change and, sensibly, it will change over time. But the OEA will have a very significant and, indeed, an expanded area of responsibility compared to what it had when it was operating purely focused on the ATSIC programs. We are now looking at the full almost $3 billion worth of resources per annum that are expended on Indigenous specific activity.

Senator CARR—You have addressed so far the question of improved accountability to the political system—that is, through the parliament to the government, perhaps. How will there be improved accountability to Indigenous people?

Mr Yates—Fundamentally, the methodology that we are working to directly engages the government with people at the local level, not simply through organisations. The effectiveness of what we are doing will be seen and experienced at that local level insofar as shared responsibility agreements are concerned. In terms of the performance of programs more generally, that public annual report that will be produced annually will be aiming to demonstrate whether or not the Commonwealth's overall investment through its different programs is producing improved outcomes.

Senator CARR—But the regional councils will go, as of 30 June. You are saying that regional accountability will be through local communities—how will that be reflected through to the political system? How will Aboriginal people have a voice in these matters?

Mr Yates—It will be in the hands of Indigenous people themselves as to what structures they may want to put into place and what roles those structures may play.

Senator CARR—So what is your plan for these regional structures? Are you going to fund them?

Mr Gibbons—I think it is too early for us to comment on that. In the context of the last COAG meeting the government made a commitment that it would conduct bilateral sessions with each jurisdiction in Australia on the question of the new Indigenous arrangements, including arrangements for regional engagement. We are part way through that process of dialogue with each of the jurisdictions. We have also consulted with regional councils and we are consulting with communities.

Senator CARR—What is to stop the parliament taking the view that there are already in existence regional structures and that they should be continued? When you drafted this bill you thought it necessary to continue them through to 30 June. We know damn well that there is nothing to stop the parliament other than the numbers, but what reason can you advance to the committee to explain why we should not move to have those regional councils continue?

Mr Gibbons—The position the committee takes is for the committee.

Senator CARR—Yes, I understand that, but I am asking you for a—

Mr Gibbons—We are public servants. The government has taken a position that it will abolish—it wants to abolish—ATSIC and regional councils. It is also introducing changed arrangements, which I think are more significant than the question of whether ATSIC or regional councils survive. The change in methodology for the first time in, I think, over 35 or 40 years, as Mr Yates has just made clear, is a commitment by government not only to engage comprehensively with people at the grassroots level about things that will affect them but also to draw together in that context everything that the Commonwealth does. So it is a comprehensive script, if you like, for Commonwealth assistance on a community by community basis, set against what the communities will do to help themselves. That is the more significant outcome of these new arrangements and holds more promise than anything that has gone before, I think, for the betterment of Indigenous people, particularly in remote and outer rural communities.

Senator CARR—So as far as you are concerned the administrative arrangements are insignificant?

Mr Gibbons—As you know, from time to time governments of all persuasions change administrative arrangements. Departments come, departments go and functions are transferred. Who administers the functions is not so important a thing; it is the methodology—the approach—that is the critical part here, I think.

Senator CARR—You would say the philosophy is the key issue?

Mr Gibbons—The methodology. The philosophy behind the methodology is important as well.

Senator CARR—When it comes to questions of public administration though there are some fundamental principles. The issue that has come before this committee again and again is the concern that following 30 June there will be no-one for you to talk to other than those that you want to talk to.

Mr Gibbons—No, I think that is wrong. We have committed to engage—to talk—with the communities that we are assisting over and above the standard welfare entitlements. We are talking here about government discretionary assistance to communities—above entitlements. Now, whether it be a remote community or a community within a significant rural area of Australia, we are committed to sitting down and engaging with them all about their priorities and issues and to constructing with them a Commonwealth investment plan. The object is also to bring the states into that, and that is why we are engaged in bilateral discussions with the states. It is fair to say that, although we have not concluded formal agreements, we have certainly had an enthusiastic response from the jurisdictions we have been talking to thus far. I mentioned the cooperation that will occur in respect of one community, to align our investment strategies in a way that reduces the burden on the community.

Senator CARR—When was the Mulan agreement signed by the way?

Mr Gibbons—I think it was before Christmas.

Senator CARR—It was signed before Christmas?

Mr Gibbons—I would have to take advice on that, Senator. The approach was made when I was in the Djirbalngan area—

Senator CARR—In August last year?

Mr Gibbons—around August last year, I think it was. The other thing is that we have also committed to regional partnership arrangements. We are not going to impose structures on communities but we are talking to them already about how they want to share or aggregate their interests across the region. There are a number of examples in the pipeline where communities, particularly communities in rural and remote Australia, have put together collaborative governance arrangements to protect or advance their interests and we will recognise that and work with them. Other arrangements will emerge. The fundamental approach that the government is taking is that it is not imposing Canberra designed and made structures on Indigenous people; it is talking to them about what they want et cetera.

Senator CARR—The trouble I have with that analysis is that my reading of the documents I have seen suggests to me that there is a policy framework in place and it is quite explicit. It actually provides for quite detailed changes in administrative arrangements at a centralised level. For instance, are you considering the phasing out of remote area exemptions from activity testing?

Mr Gibbons—Remote area exemptions are part of the social security administration. As I understand it, they are an administrative arrangement applied in circumstances where work has not been available. We are talking, in the context of shared responsibility, about getting people involved and participating in the welfare of themselves and their communities.

Senator CARR—Mr Gibbons, I accept that.

Mr Gibbons—It is quite possible that those exemptions will be taken away.

Senator CARR—It is possible?

Mr Gibbons—It is not my area of administration anymore but it is possible that these will be removed. As I recall, it is in the coalition's election policy. These exemptions are quite destructive to morale in communities and many leaders are telling us that they want them removed.

Senator CARR—The point is that you are actually negotiating with people considerably less powerful in an environment where you have the big stick—the carrot and stick approach as I believe it says in one of your documents. You have the capacity to remove, for instance, those exemptions. You can say to people, 'Either take this or leave it.' Is that not the case?

Mr Gibbons—The exemptions do not apply except in a small number of places in Australia. The majority of Australians, including Indigenous Australians—

Senator CARR—Do they apply to all Australians?

Mr Gibbons—No.

Senator CARR—So who do they apply to?

Mr Gibbons—They apply in a few remote circumstances; they do not apply in mainstream Australia, including Indigenous Australians who live in our major cities and major towns. In return for income support you must be actively pursuing work. If there is no work, you must be a participant in the Work for the Dole program. That is how it works in mainstream Australia. As I understand the coalition's policy, they want to start engaging people and drawing them back to participation in their communities. I have been to many communities where people wander around sniffing petrol. Kids wander around sniffing Coke cans filled with petrol and adults ignore it. Community elders beg us to do something about empowering them to get their people together and involved in working for the community. It is not a question of the government rushing out there and imposing change on individuals. It is about responding to sincere calls from Indigenous people in various circumstances to change our methodology in the context of negotiating with them.

Senator RIDGEWAY—Can I respond to that with a question. If you hold that view, and perhaps many Australians do, why do you believe that the government will not take a decision to provide the necessary funds for Indigenous health to be improved if you use an example of what is happening on the ground within communities, particularly when you have expert report after expert report—from your own departments, from the Australian Medical Association, from Indigenous organisations—that continue to say that there is a need for the investment of funds up front, here and now. If that is the case, how is it that a shared responsibility agreement or a program that deals with, as you describe it, petrol sniffing within communities can overcome the life circumstances that we currently see within communities? It comes down to one question: why is it that you believe a government would allow people that are currently sick to get sicker?

CHAIR—Senator Ridgeway, you know that public servants cannot offer an opinion on that issue.

Senator RIDGEWAY—I think it is relevant from the point of view of making a comment—

Senator CARR—Mr Gibbons is giving a broad-ranging philosophical response to the questions I have asked. He may wish to give a response.

CHAIR—Mr Gibbons, if you can find a way that you feel you can answer that question then you can, but I do not consider that an appropriate question.

Mr Gibbons—I will make one comment: I have been in situations, particularly in remote communities, where circumstances of appalling health require attention, but it is not exclusively the question of money that can resolve it; it is a question of behaviour, of community attitude.

Senator RIDGEWAY—But you are in a position, are you not—

Mr Gibbons—Through the methodology that we are talking about here, shared responsibility, we are trying to encourage—

Senator RIDGEWAY—But you have a position of providing advice to government.

Mr Gibbons—The advice we give to government is privy to us and the government and what the government does in the future in the context of these arrangements is a space we will be watching. I am talking about the methodology of shared responsibility.

Senator RIDGEWAY—So you are saying that the new methodology will not become a series of cost-shifting arrangements between lead agencies; that given that regional councils will disappear and we will have these new regional representative networks arising—which no doubt you will have made some assessment will cost money to put in place—you will engage these people and that you will dedicate the resources required to bring about the changes to tragic circumstances that you describe. I think we all agree that it needs to change. And whilst money might not fix it, in and of itself, there is a chronic shortfall of funding, particularly for Indigenous health in this country that cannot be disputed. It is fine to talk about the sensational pictures of what is occurring within communities; it is another thing to neglect deliberately an obligation to respond to what is a tragic circumstance right across the country.

Mr Yates—I note that since Indigenous health was mainstreamed from ATSIC in the mid-nineties the amount of resources that have been applied to Indigenous health funding has increased in real terms 2½ times.

Senator RIDGEWAY—We can argue about the figures. If you want to look at it from the point a view of the amount of Medicare money that has been dedicated to Indigenous health, you will find only 74c in the dollar arrives for every one Indigenous person in this country.

Senator CARR—Or from the Pharmaceutical Benefits Scheme.

Mr Yates—I am not saying anything is adequate or anything else. I am just pointing out that the mainstreaming process itself has not seen any reduction in that particular area of Indigenous programming. Indeed, it has been associated with a significant expansion.

CHAIR—Mr Yates, it is dangerous to start talking about income when we are talking about outcomes. We have found that at many a Senate hearing, so that in itself is not an answer. But I take your opinion. The senators have their opinions on record; you have your answer.

Senator CARR—Mr Gibbons, you are saying that these SRAs, where the government does these special deals with communities, are going to be confined to additional entitlements.

Mr Gibbons—No, we are not talking about entitlements.

Senator CARR—I thought that was the word you used before.

Mr Gibbons—No, I said over and above entitlements.

Senator CARR—So there is a basic entitlement you are now discussing—

Mr Gibbons—People like you and me, all Australians, have access to social security entitlements and other statutory based entitlements. In the area of Indigenous affairs there are special measures that are discretionary and there are services that are provided to meet demand: legal services, health services et cetera. We are talking about the discretionary investment that

has been delivered in the past by ATSIC and by some other agencies. We are drawing together the Commonwealth discretionary investment into a comprehensive investment strategy architected on a community by community basis. And we are drawing the states into that process as well.

Senator CARR—What is the basic entitlement of a citizen? Do you have any calculation you could provide the committee with? For instance, is the entitlement based on need or is there a per capita arrangement or some other device you are now using to provide some sort of method of allocation of Commonwealth funding? How does it work, Mr Gibbons?

Mr Gibbons—I still think we are talking at cross-purposes about entitlements.

Senator CARR—No, we are not talking at cross-purposes; we are going right to the nub of the problem. At what point do you say that primary health care is an entitlement of all Australians irrespective of race or location, and at what point you say, 'This is an additional matter and we are going to make sure you humiliate yourselves if you want to get a petrol pump or some other device within the community'? That is the nub of the philosophical debate.

Mr Gibbons—We have not denied funding for health care in the context of an SRA and will not be doing that. The SRA that you are mentioning in Mulan arose out of a request from the community for a petrol bowser for an economic purpose, not a health purpose. It is totally discretionary whether we provide it. In the days of ATSIC it was absolutely discretionary whether ATSIC provided that sort of thing. What we have said is that we are happy to commit the investment but we want to see the community take on the responsibility for some of the problems in the community. They went away and thought about it and decided that they wanted to tackle some of the behavioural problems that aggravated the trachoma issue in that community. It was not a question of whether we would continue to fund the nurse, the medical service et cetera.

Senator CARR—I have an article here from the *West Australian* newspaper dated 11 December 2004 which describes the conversation between you and Mr Mark Sewell, the administrator of this particular community. The clear inference that I am left with from this article is that Mr Sewell was frustrated about not being able to get basic facilities, had a conversation with you in August and came back to you six weeks later with this proposal regarding behavioural change. The clear inference of this article—this is your opportunity to correct this inference that I have drawn—is that you provided him with advice on what would be necessary behavioural change in return for a petrol bowser.

Mr Gibbons—You can draw that conclusion but it would be wrong. I was asked whether they could have a petrol pump. I said: 'Look, the approach these days is based around shared responsibility. We are happy to consider the request. There will be certain conditions attached to it about non-aromatic petrol et cetera—

Senator CARR—Yes, you do not want the kids to use it for petrol sniffing. I agree.

Mr Gibbons—But we want to see what the community is going to do in return to help with some of the issues in that community.' He went away and talked to the community. I did not say, 'Go away and look at the issue of trachoma,' or to look at something else. That was their choice.

Senator RIDGEWAY—Is it true, though, that they asked seven years ago?

Mr Gibbons—They asked ATSIC, I think, seven years ago and ATSIC said no.

Senator RIDGEWAY—And you were the CEO of ATSIC.

Mr Gibbons—No. I mean, they asked last year for lights for their basketball court. We responded to that as well.

Senator CARR—The question I have is with regard to the presentation that you give on this issue—that it is up to the communities. In your view of the world, it is up to the communities to come to you.

Mr Gibbons—It is a partnership.

Senator CARR—However, when I read the government documents—and you have acknowledged that, at least in terms of coalition election policy, but I also mean internal government documents—there is a constant reference to requirements. For instance, the incoming government brief, presumably prepared by officers of the Commonwealth, says:

- progressively requiring activity and participation in exchange for all forms of income support, for example requiring parents to bring their children for a health check while receiving parenting payments. This would include phasing-out remote area exemptions for activity testing, through SRAs).

That is a government policy.

Mr Gibbons—I am sorry; it is not a government policy. You are reading from a leaked document that was an incoming government brief. That was advice to government. Decisions taken by government are something else.

Senator CARR—So you acknowledge it is leaked and clearly I have got it so it is leaked. What a remarkable discovery! The fact remains that it was prepared for government. You cannot comment on what was prepared, whether it is authentic or not. My concern is that there is in fact a framework operating which is very much top down and gives an entirely different view of the policy settings that you are now operating on. It is not bottom up at all; it is top down. It is a carrot and stick approach that you are using to secure behavioural change.

Mr Gibbons—I have several times explained that the approach is a bottom-up construction of an investment strategy, community by community, around the concept of shared responsibility that embraces mutual obligation. That is the government's policy and that is what we are implementing.

Senator RIDGEWAY—Given that remarkable statement, how do you respond to an issue that has been raised with me about a particular community in northern New South Wales? Following the great media debate about the bashing and sexual abuse of women and children within communities, these Aboriginal women took it upon themselves to form a mothers group and, in the process of doing that, also sought to acquire property held by ATSIC. ATSIC had taken a decision, as I understand it, to transfer that property across, recognising that it could provide a service within those communities. The property is now under the administration of FaCS. FaCS took a different approach to it, reassessed it in the context of housing and reversed

the decision. The building is still unoccupied and the mothers group have now been told to go and find an alternative arrangement. If you are saying that there is a bottom-up approach and if we have communities out there, particularly mothers, who are doing exactly that—who participate in the process; whether it is before, after or during the transition makes no difference—how much weighting do you give to community views in circumstances like that? Surely there is an obligation: if you are talking about coordination and being able to garner the views of community people, particularly mothers, in this particular instance shouldn't the property just be transferred?

Mr Gibbons—I do not know anything of that case, although your description of it does not ring true to me. You began, I think, by saying this was an ATSIC property that ATSIC decided to transfer to these women. It would not have come within the jurisdiction of FaCS if it was an ATSIC property. Beyond that, I cannot comment because I do not know about the case. I do not know whether any of my colleagues do. If ATSIC had taken a decision—

Senator RIDGEWAY—You are in a position, though, to comment, given that we are talking about the involvement of an Indigenous coordination centre—

Mr Gibbons—I am, but I would like to have the facts clear first.

Senator RIDGEWAY—and a lead agency and community views.

Mr Gibbons—I like to have the facts clear before I comment. But if ATSIC had taken the decision to divest a house, that would have proceeded.

CHAIR—Mr Gibbons, I believe we have put that question to FaCS, for them to come back to us with more detail. We will give you the same information and then you may be able to respond to Senator Ridgeway's question.

Senator RIDGEWAY—It is appropriate, though, Madam Chair, from the point of view that the OIPC understand that everything is not smooth and everything is not well as far as ICCs go, and that, in this week alone, evidence has been put before this committee suggesting that. That is what we are hearing.

Mr Gibbons—I am not saying that all of the wheels are turning perfectly yet. This is a huge cultural shift after 30 or 40 years of a different approach. It is as much a change for bureaucracy as it is for communities. There is a lot of learning and a lot of work to be done, but we have embarked on a course that we are determined to follow through while that remains the government's policy.

Senator CARR—Did you get the date of the signing of that agreement?

Ms Hawgood—Just to clarify that, it has not actually been signed; it is with the three parties at the moment to be signed.

Senator CARR—So it still has not been signed?

Ms Hawgood—That is right.

Senator CROSSIN—I have quite a number of questions and it is clearly not going to be possible to get through them this afternoon. We could ask them during estimates or the committee could request that you come back. I am not sure whether to start with Yipirinya or artwork or Torres Strait Islander people who live on the mainland. One thing I do want to ask about is this: you are fairly adamant that this will be a bottom-up process. Of all the communities we have been to in these hearings and of all the Indigenous people who have sat before us, I have not had one person give us evidence that they believe that that is the case. I would strongly urge you to look at all the transcripts of the last 12 days or so.

Clearly, Indigenous people are saying to us loud and strong that somewhere in the system they want the right to be able to maintain a regional collective voice. For example, you say—and I have heard DEST say this—that at Murdi Paaki they will continue to work with their working groups. That is fine. Our understanding is that is what the community wants. In fact, they have asked us to retain schedule 3 of the act so that at the end of the day, if they have a Murdi Paaki regional authority, it can be specified in the act. The committee will have to consider that sort of evidence. But surely your job would be easier if there were some mechanism for communities to be able to have structured consultative arrangements. We have had very sophisticated models put to us. The Alice Springs model is different to the Miwatj governing council in Nhulunbuy, which is different again from the Kimberley model. A lot of intelligent and sophisticated work is being done out there by Indigenous people on the way they want to consult with government. My concern in what I see happening after 1 July is that government departments—the OIPC in particular—may or may not choose to use those structures.

I think there will be benefits in some areas of what you are trying to do. It may be slow and painful on both sides—particularly, I suppose, for the senior bureaucrat who I understand wanted to know what a regional council did. That person has obviously got a bit of learning to do. But surely it would make your task easier in trying to implement this new regime if the regional councils or assemblies were given some legitimacy so that Indigenous people's concerns about consultation can be met.

Mr Gibbons—The government's policy is that they will come to an end and that we will recognise regional—

Senator CROSSIN—Sorry, perhaps I did not make myself clear. When I say 'regional councils' I mean regional assemblies, regional bodies or whatever Indigenous people may choose to call them after 1 July.

Mr Gibbons—I misunderstood you then. In some parts of the country we are already working with communities that have formed regional arrangements and we are negotiating what we are now calling regional partnership arrangements. The approach that the government announced allowed for a variety of arrangements that were different from one location to another—it did not define any geography, it did not define any particular approach. The government committed to consult, particularly with the jurisdictions, because in different states the preferences for approaching this issue vary. That is what we are doing and we have not come to the end of that process.

Senator CROSSIN—Indigenous people are putting to us though that the legitimacy of recognising these bodies would give them comfort in knowing that there is a monitoring and

evaluation role on their part and legitimacy to their questioning the commitment. We are talking about shared responsibilities. They want a body that can hold the government to account and that in some way is recognised in a formal way. Would that not assist accountability for both parties? When we look at the shared responsibility agreement at Mulan, for example, I do not know what day you plan to actually launch your petrol bowser—I believe it is due to be built by 30 September this year—but what day is everyone in that community expected to front up and prove they have eradicated trachoma? Where is the accountability from both sides? If one side—that is, the community—do not meet their end of the bargain, what are the consequences?

Ms Hawgood—Shared responsibility agreements have not been set up so that people are punished for not achieving. Every shared responsibility agreement will contain a two-way feedback process and the kind of accountability arrangements that the community wants as well as the government. That is in response to what communities have asked us to do; they want to be part of making sure that things are working. They also want to be able, if things are not working, to refine along the way and have us not walk away as we traditionally have at times when grants have fallen over. So it is not accountability as punishment. SRAs are a partnership between government and community. Two-way feedback mechanisms are put in place not to punish if not achieved but to make sure that changes can be made and things can be refined so that there are no surprises for either party.

Senator CROSSIN—Do you have a draft SRA or a pro forma that you can provide this committee for us to have a look at?

Ms Hawgood—A template of an SRA, you mean? Yes, we do.

Senator CROSSIN—Could you talk to us about it? We actually want to critically analyse what you mean in the SRA.

Ms Hawgood—I am happy to do that.

Senator CROSSIN—Perhaps if you could provide us with a template we will question you the next time we meet.

Mr Gibbons—We are happy to do that. I just stress that there is not one size fits all. We might have a template but it is a guide—

Senator CROSSIN—People like Senator Scullion and I know that better than anyone in this room sometimes.

Senator RIDGEWAY—But in a simple agreement like the one in Mulan a key question is: how do you evaluate that agreement? What processes, what criteria have you established to measure and to monitor?

Mr Gibbons—We are certainly not going to be counting how many times kids wash their hands and all of that.

Senator CROSSIN—Then why have it?

Mr Gibbons—We are going to be looking at the impact it has on the health of those children. That is what it is there for. The objective of the community was—

Senator RIDGEWAY—And given everything else that needs to happen within that community including better housing, better water, better sewerage, perhaps the provision of a swimming pool, perhaps sealing the road: how do you evaluate the current agreement as it stands?

Ms Hawgood—The impact will be something that the community wants to measure, not just something that we want to measure. So it will be what is important to them as well as what is important for us. Yes, there are all those other issues but, if we waited until all those were resolved, we would never be able to make a start with a community that is ready to start on something that is an urgent priority for them, as was the case with Mulan.

Mr Gibbons—That is why the government did not say on 1 July last year that all of the funding arrangements would shift to a shared responsibility basis. We continued funding on the existing arrangements for another year and some of that will be extended again because we are taking this in a measured way. There is a lot of learning on both sides. We do not profess to have all of the answers. It is going to be a partnership and we will work it out together.

Senator RIDGEWAY—But I take it, based on that, given that perhaps in a year or maybe even two years time when we do an evaluation of the Mulan community, trachoma itself will still exist. How do you assess that against the current agreement and considerations of whether or not there will be further funding? Isn't there a real danger that those typical bottom line agreements may produce a skewed result in terms of trying to find some outcomes because they do not take the holistic approach of looking at other factors or other determinants within communities?

Mr Gibbons—I misunderstood where you were coming from. I now think I understand. Mulan was a one-off, single issue SRA. We are doing a few of those now as part of the learning process. It is the objective of government to draw everything we do in a community like Mulan into a single SRA. It is not that we are going to have 50 SRAs in Mulan that are all put together without acknowledging the others. The objective—the strategy—is to draw investment in a community like Mulan finally into a single SRA. But we are in the early stages of testing community responses and our own approaches on a number of fronts. We have an objective of 50 to 80 this year. From that, we will take some learning before we start pushing it on a broader front.

Ms Hawgood—As with all new things, communities have said to us that they want this holistic approach from government but that it is by its nature at least a medium if not somewhat longer term approach. They want to know what this is going to look like. They do not want to have to wait. The government has committed to this for the long term, as have the communities going into it, but they want to see something happening ahead of us being able to get the holistic approach started. We are working in two parallel ways with these communities. One is trying to address some of these things that are urgent needs while at the same time sitting down with them. We have actually been talking to Mulan over the last 12 to 18 months, and to the other communities out in the East Kimberley, about a range of things that they think need to be done and that will come together at some point in the future. But at the same time it is important to

move quickly on those priorities that are urgent in people's minds. So we have a long-term and a short-term approach.

CHAIR—There are many other questions and we are not going to get near them this afternoon. Mr Gibbons, we will get back in contact with your agency to see whether there is another time you can come or whether we will have to put the questions on notice in writing. We will have to agree among ourselves on that before we contact you early next week. We thank you for your evidence. There are already some standard questions we have been putting out to each agency, which you will get from the secretariat.

[3.38 p.m.]

STANHOPE, Mr Jon, Chief Minister and Minister for Arts, Heritage and Indigenous Affairs, Australian Capital Territory

CHAIR—Mr Stanhope, thank you for your patience and thank you for choosing to join us this afternoon. Before we start, I have to make apologies for the committee because a number of senators have to go and catch planes—you will understand that, it being a Friday afternoon in Canberra. It is not rudeness; it is just necessity. I want to put that on record to start. You have given evidence many times in different places, so you understand that you may choose to request to give your evidence in camera. You also understand the position of a politician giving evidence to a Senate committee. If you have any questions, let us know.

Mr Stanhope—Thank you for the invitation to express the view of the Australian Capital Territory government on the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004. There are essentially only a couple of points that I wish to reinforce as the views of the Australian Capital Territory on this matter and I certainly understand your circumstance and do not seek to delay you at all. I have a short prepared statement which covers the thrust of the main comments that I wish to make.

My government is strongly of the opinion that the abolition of ATSIC without a commitment to replace it with a directly elected national Aboriginal and Torres Strait Islander body is a monumental step backwards on the road to reconciliation. That Indigenous Australians continue to experience severe disadvantage is beyond dispute. The *Report on government services 2005*, which was released by the Productivity Commission last Friday, includes a great many statistics relating to Aborigines and Torres Strait Islanders. It shows again that Indigenous people are much more likely to drop out of school, go to jail, die young and contract diabetes. Indigenous Australians earn just 56 per cent of the average family weekly income. In light of these facts, the abolition of ATSIC without establishing a directly elected body in its place is, in my opinion, wrong and, I believe, indefensible. It is clear that Aboriginal and Torres Strait Islander people need an elected body to advocate on their behalf and represent their interests.

The ACT government is of the view that ATSIC should be immediately replaced with an Australian government funded, elected representative body able to promote and protect the interests and welfare of Aboriginal and Torres Strait Islander people at the national level. Aboriginal and Torres Strait Islander people have a legitimate right to, and expectation of, elected representation at the national level. While Aboriginal and Torres Strait Islander people continue to experience severe disadvantage in the present Australian society the abolition of an elected body to advocate and represent their interests is a major setback in addressing that disadvantage. It is the opinion of the Australian Capital Territory that it is a further deterioration of self-determination for Aboriginal and Torres Strait Islander people and, in my opinion, represents a gratuitous attack on Indigenous pride, Indigenous power and Indigenous self-confidence.

The ACT government supports the establishment of a directly elected national Aboriginal and Torres Strait Islander body funded by the Australian government to provide independent policy

research and advocacy. The body should have representation at the state and regional levels, similar to the current ATSIC regional council structure, to ensure that there is consistent and ongoing representation and advocacy of Indigenous interests at these levels. However, my government is of the view that the current regional council arrangement, under which the ACT is a ward of the present Queanbeyan region, unfairly disadvantages the Aboriginal and Torres Strait Islander people of the ACT. The ACT is the only jurisdiction in Australia that is part of an ATSIC region administered from outside its borders. The needs and aspirations of the Indigenous rural people of New South Wales and those living in the ACT are not necessarily identical. The present ATSIC Queanbeyan Regional Council services a region consisting predominantly of rural communities, with needs and services peculiar to regional circumstances. In contrast, the Aboriginal and Torres Strait Islander population of the ACT is largely urban and presents a different pattern of service needs and access.

My government believes an elected state and regional Aboriginal and Torres Strait Islander body should have boundaries which coincide with the borders of the ACT. This will ensure that democratically elected Canberrans of Indigenous background can provide advice to the ACT government and to federal authorities about service provision and resource allocation. It will ensure that the interaction of ACT government agencies and Commonwealth agencies and the Aboriginal and Torres Strait Islander people of the ACT has a transparent focus, with a body that has a clear mandate to identify problems and priorities. It will ensure that the unique needs of the Indigenous community of Canberra, particularly in relation to the provision of resources and the design of services, are more easily conveyed to a national body, and it will ensure that the Indigenous community in the ACT is in a stronger position to contribute to the development of policies and the debate on national priorities relating to Aboriginal and Torres Strait Islander people. I believe it is an important component of our national and individual commitments to reconciliation. Those are the major points I wish to make, and I once again thank you for receiving the ACT government's submission.

Senator CARR—Thank you very much, Chief Minister. It is very good to see members of other jurisdictions come before Senate inquiries. The officials we have just heard from, from the OIPC, have indicated that the government is currently consulting all jurisdictions about regional consultation and representation in the immediate period following 30 June. Have you been consulted yet?

Mr Stanhope—No. I must say that at the last MCATSIA meeting Senator Vanstone indicated that there would be bilateral discussions or negotiations with each of the states and territories in relation to a future regime or a replacement structure for regional councils. I did indicate and have indicated firmly at MCATSIA meetings my government's view. I am prepared to say, and I am sure you are probably aware, that I am very much a lone voice in relation to this. One of the reasons I was intent on appearing today is that there is a part of this debate that does not have advocates at a level that is deserved.

I have indicated in that context to Senator Vanstone my government's strong desire that the fruit of those bilateral relations as they affect the Australian Capital Territory will be that the federal government will continue to fund an Indigenous electoral roll. I have also indicated that the mechanism that the ACT government would like to see replacing the ATSIC regional council structure is essentially a structure of the same order, confined to the ACT, but which provides for

a full Indigenous electoral roll and a full and democratic electoral process to determine who represents the Indigenous people of the Australian Capital Territory.

Senator CARR—A submission has been received and a number of witnesses have spoken to the suggestion that this committee should recommend that schedule 3 of the current act be retained and therefore that regional councils be retained, even though ATSIC commissioners themselves may well be removed. Would you support such a proposition, notwithstanding your hostility and opposition to the removal of ATSIC commissioners?

Mr Stanhope—Yes, I would. As a political pragmatist and realist, acknowledging where the numbers fall, that essentially is a position that my government is seeking at this stage. In relation to my continuing advocacy for ATSIC and my repetition of my belief that the abolition of ATSIC was wrong—and history, I believe, will show it to have been a wrong decision—I accept that the fate of ATSIC is sealed. That does not mean that I will not continue to advocate on its behalf and continue to put the view or express the opinion that the decision that was taken was wrong-headed. But the essential thrust of my submission to this committee is that the ACT government would support the position that you just put—that is, we are looking for a continuation of Commonwealth support for the maintenance of an Indigenous electoral roll and Commonwealth support for democratic elections of Indigenous people at state, territory or regional level. I think it is a second-best commitment to Indigenous self-determination, and I believe it would lessen some of the hurt that the abolition of ATSIC has caused to reconciliation and to Indigenous aspirations for self-determination or a greater degree of self-determination in Australia.

Senator CARR—Is yours the only jurisdiction that you are aware of that has not been consulted about the future representational role for regional structures?

Mr Stanhope—I have no information on the status of those negotiations in other jurisdictions.

Senator CARR—Are you aware of any discussion with Indigenous groups or people about the future representational role? It may well have bypassed your government.

Mr Stanhope—I am not. I could take some advice from my officials, but I would be surprised if those consultations were proceeding in the absence of advice to the ACT government or to my Office of Indigenous Affairs.

Senator CARR—Mr Stanhope, there was recently a poll in the *Australian* newspaper of 28 December by Newspoll which found that 66 per cent of Australian people supported what I would term the humiliation of Aboriginals, particularly through the Mulan agreement. That is the one that has been cited. I notice it has not been signed yet, and there may well be some disputation about how the process got under way. How do you respond to polls such as that, which are not uncommon—it is not the first time that I have seen polls of that nature? How do you respond to the situation where it appears that there is such strong support in the community for authoritarian policies against Indigenous people?

Mr Stanhope—I have responded strongly, and I have responded essentially by asserting some basic and fundamental principles of human rights. I believe that that is the starting point in any debate around Indigenous affairs or proposals that attempt to single out a discrete group of people by a certain characteristic within the community. One goes back to fundamental human

rights principles, which shout that it is simply not just inappropriate but a breach of a fundamental human right to be identified on the basis of a characteristic, namely, that you are Indigenous or Aboriginal as a determinant of your access to certain services. It is classic scapegoating. It is identifying a group that has been scapegoated within this nation for 217 years. It is a continuation of that same process. There is a group within this community that has, over 217 years, achieved a certain reputation or notoriety in relation to certain of its behaviours, and I see it in very cold and black-and-white terms.

It is a breach of human rights. It offends against, I believe, the Racial Discrimination Act. I can assure you that it offends the ACT's Human Rights Act and certainly it would be in breach of our law, were it proposed within the Australian Capital Territory. But I believe it is also in breach of the Commonwealth's own laws. I believe it is in breach of some of our international human rights obligations and commitments. I think that is the starting point. It is a fundamental principle. One goes back to principles, and one simply stands by those principles and continues to assert them, that we are not selective in their application. I believe the implementation of the mutual obligation arrangements is very selective in its application or interpretation of the law.

Senator SCULLION—Thank you very much for appearing in person, Chief Minister. It is a delight to see not only a Territorian in the room but someone at your level who is prepared to personally appear. I am interested in a couple of issues. I will probably deal with them in the same order that you did. Certainly, I understand that you report to us your discussions with Minister Vanstone, but also I understand the commitment you made during the previous poll in the ACT that you would, as an election promise, if you like, provide for an elected body of representative Indigenous people in the Australian Capital Territory. Obviously, it is something that you would have budgeted for. Can you give me a broad overview? What sort of costs were you looking at when you were providing for that?

Mr Stanhope—Thank you for the question. Before I answer it, my officials have indicated to me that the Head of the Chief Minister's Department has had discussions with Commonwealth officials. At this stage I do not know what the nature of those was in response to a previous question you have asked. But I would clarify that certain discussions have been held. I have no idea at this stage of what their import was. I will contact your secretary to confirm what those discussions may have been.

I have not yet appropriated any funds. At this stage I am hopeful that this committee will of course recommend that the model, which the ACT government supports, be adopted by the Commonwealth. I will remain hopeful that you will support Commonwealth funding of elections, at least within the ACT. If it is not a proposal, it would be supported nationally. I know in fact that some other states, or some other jurisdictions, have a view about the nature of the representative organisations that they believe are appropriate or which they desire. It may be that I am not at one with my interstate and interterritory colleagues on this. My position is that the ACT government's preferred position is that an Indigenous representative body for the Australian Capital Territory should be elected.

I hesitate to say it, because I do not wish the Commonwealth to feel that it has a free hand and that the ACT will pick this up if it chooses to ignore my representations, but I am prepared to say, and I have said, that if the Commonwealth will not support the maintenance of an Indigenous role within the ACT, as it currently does, and will not support the conduct of

democratic elections of Indigenous people for the purpose of representing them in territory and Commonwealth forums and with territory and Commonwealth officials and organisations then yes, I will establish an Indigenous role within the Australian Capital Territory. I will support the conduct of elections of Indigenous people within the territory to replicate the current ATSIC regional council, but within my borders. I understand that my officials have made a tentative budget bid of $40,000 for the purpose of conducting a possible first election. We are a small jurisdiction: we have just on 4,000 people within the territory identifying as Aboriginal or Torres Strait Islander.

Senator SCULLION—The COAG's commitment or contribution to reconciliation included supporting the notion of shared responsibility agreements. Some of your comments earlier seemed to completely run counterintuitively to that. Can you explain why you are part of that and suddenly we have something that is different or are you just referring to this particular and peculiar example about no child in poverty without a petrol pump?

Mr Stanhope—I might just say that it is one of those intriguing coincidences in life that the ACT shared responsibility agreement was signed between the ACT government, the Commonwealth government and ATSIC on the day that the Commonwealth announced the abolition of ATSIC. It is one of those fine ironies in life. On 15 April 2004—

Senator RIDGEWAY—It's still going.

Mr Stanhope—It is very interesting.

CHAIR—What time was it signed?

Mr Stanhope—I understand that the then acting chair of ATSIC signed the agreement at 10 o'clock in the morning and had an appointment with the federal minister at 12 to be advised that it had just been abolished. The last act of ATSIC prior to the announcement of its abolition was to sign a tripartite shared responsibility agreement between the Commonwealth, the ACT and ATSIC. It is a fine irony which is not lost on me. But I think the nature of the COAG shared responsibility arrangements is fine in principle. I believe that they could produce some very constructive results. I asked at the last MCATSIA meeting with Senator Vanstone—with great respect to Senator Vanstone—for her to explain to me in a context so that I could understand and digest exactly what the notion of mutual obligation really meant and how it would be implemented. One of my great concerns with this experiment that has now been launched in Western Australia is that we truly do not understand how it will be fully implemented, what the implications are and what it means. All my intuition in every fibre of my being screams that it is wrong as a matter of principle, and I respond to my intuition and my instincts in these matters. It is just simply wrong.

It bears no resemblance to the COAG shared responsibility trial arrangements we are participating in—as the Indigenous people of the ACT are fully participating in. I believe it is productive and very positive, and the Indigenous people of the ACT are willing partners in that process. But those Indigenous people of the ACT whom I have spoken with and consulted on the mutual obligation shared responsibility as explained are universally opposed to what they see as the humiliation of their people. They are distinct and different programs and proposals. They are philosophically completely different.

Senator CROSSIN—Chief Minister, thanks very much for coming along today, particularly given your stature in the ACT. I notice in the booklet that we have been given, although I have had mine for a while now, the new arrangements in Indigenous affairs. There is in fact no Indigenous coordination centre planned for the ACT; therefore, I am assuming that Indigenous people in the ACT have to go to Queanbeyan to access whatever advice or service. What difficulty does that pose for your government if we are talking about a three-way new era here come 1 July? Do you have to send your officials over the border? Is there somewhere inside the Queanbeyan ICC an ACT section and a New South Wales government section? I do not quite understand how this all works.

Mr Stanhope—That is how it has worked historically, and it has been one of our concerns within the ACT. I am very strongly supportive of the Queanbeyan regional council. I think they have been a very effective council and continue to be so. But from an ACT or parochial point of view, and I represent Indigenous people within the territory, it is a fact that the Indigenous people in this territory are the only Indigenous people in Australia who have an ATSIC regional council currently—

Senator CROSSIN—In another state.

Mr Stanhope—in another state with a predominance of members from another jurisdiction. Their focus in many instances, of course, is the Commonwealth but in many others it is to the New South Wales state government. We have an ATSIC regional council with very much of a focus on the New South Wales parliament and with a minority of members of that particular council being ACT residents for a start. As you say, the council is coordinated through Queanbeyan. There is not a designated Commonwealth manager of Indigenous affairs for the ACT.

I make one additional point. I acknowledge that the new advisory council appointed essentially as a replacement to ATSIC is not designed to represent regions or states or territories. But in the context of the arrangements within the ACT, given the fact that we are a minor part of a broader ATSIC regional council, that there is no coordinating centre in the ACT, that there is no designated Commonwealth Indigenous administrator for the ACT and there is no ACT Indigenous person represented on the new administrative council, the Indigenous people of the ACT are severely disadvantaged and disempowered by those arrangements. That is why we are looking for a new way forward.

Senator CROSSIN—So you would be asking this committee to look seriously at a recommendation to put an ICC in the ACT to have a Commonwealth coordinated strategy for Indigenous people here?

Mr Stanhope—Absolutely. We have discrete needs. As I said before, I acknowledge that we are a small jurisdiction. There are 4,000 people in the Australian Capital Territory that identify as Aboriginal or Torres Strait Islanders, but they are 4,000 Indigenous people, many of whom experience the same disadvantage that Indigenous people in different parts of Australia experience and have exactly the same needs.

Senator CROSSIN—We certainly have had that evidence before us in the course of this inquiry—that the needs of urban Indigenous people are sometimes lost in this debate and this

agenda. Matilda House was due to appear before us yesterday but was unable to because of personal reasons, but we will probably hear from her.

Mr Stanhope—We have made fantastic progress in some areas in relation to the programs that we seek to support within the ACT. Of enormous pride to me is the fact that in our last territory wide testing of literacy and numeracy in years 3 and 5 in primary schools within the ACT, for the first time there was no separation between the results of Indigenous and non-Indigenous children in year 3. Perhaps one of our finest achievements as a jurisdiction is that, through dedicated programs and dedicated support for Indigenous children within our primary schools, in our last territorial all schools testing of literacy and numeracy we could not distinguish between outcomes between Indigenous and non-Indigenous children at the year 3 level. We did not have quite the same success at year 5 and certainly not at years 7 and 9, which we also tested. Results there are incrementally worse for Indigenous people. But the fact that now in year 3 in the Australian Capital Territory we are unable to distinguish—at least in this last cohort—is a sign to me of the successes that can be achieved with some dedication.

I hasten to add that, whilst I am enormously heartened by the result, I know that, on the last advice I received on numbers of Indigenous children incarcerated or detained within our juvenile justice facility in the ACT, Indigenous children are overrepresented to the extent of some hundreds of per cent. Half the children in Quamby on the last advice I had are Indigenous from a population of one per cent. Fifty per cent of the children that we feel the need to lock up are Aboriginal. That is a reflection, I suppose, of some of the pressures on urban populations. We need to be blunt about it: we are talking about those of our children that we need to lock up. Of the children that we have locked up in recent times, half have been Aboriginal from a base community percentage of one.

Senator CROSSIN—Thank you, that is all I have.

Senator RIDGEWAY—First of all, I should congratulate you for coming along, being so forthright and showing the quality of leadership that is required on this particular issue. Given the position that the ACT government has taken, particularly, as I understand it, on the ACT bill of rights, and if you look at the Mulan agreement in Western Australia that was the result of the Commonwealth government dealing directly with the community as one example, how would your government respond if a discrete part of the ACT Indigenous community entered into an agreement with the Commonwealth government to the exclusion of the ACT government and with or without the countenance of, say, the Queanbeyan ATSIC regional council? Is there anything in particular that you would do, particularly if the benchmark in this particular case was what we saw in the case of Mulan in WA?

Mr Stanhope—I have actually dwelt on the possibility and have not actually resolved how I might respond.

Senator RIDGEWAY—It is possible, isn't it?

Mr Stanhope—It is. I am aware of that. I have asked myself the question. Of course, it is always a difficult issue for states and territories where resources are involved. The Commonwealth, of course, is the primary resourcer of programs on Indigenous disadvantage and all Indigenous programs. It would be a brave government that moved to reject Commonwealth

funding, particularly if it was on the basis of a program that some Indigenous people had chosen to support. So I have not followed it through. But I would not resile from the position of principle which I take on this issue.

Senator RIDGEWAY—We heard from the Social Justice Commissioner of the Human Rights and Equal Opportunity Commission in Sydney on Wednesday. He took a view that a shared responsibility agreement like the one in the case of Mulan may well indeed breach the Racial Discrimination Act. If that is the case, how would your government respond, given the bill of rights in the ACT? Would you mount a legal challenge, for example, against the Commonwealth government?

Mr Stanhope—I almost need to take the question as hypothetical. It is very difficult for me to answer. But let me not mislead you. I believe that we must take a position of principle on these issues. It is one of the reasons that I attended today. I have advice that the Mulan agreement, if it applied in the ACT, would be contrary to the ACT's Human Rights Act, which is the bill of rights. I have also had advice relayed to me that—and you have just indicated this—it is almost certainly in breach of the Racial Discrimination Act. I do not know whether I would have to look at the circumstances of each of the cases. If a group of Indigenous people in the ACT entered into an agreement with the Commonwealth which I thought was in breach of the Racial Discrimination Act and the Human Rights Act, I do not know what options would be open to me, but I certainly would not resile from the position of principle that I take. The ACT government has extremely good working relationships with Indigenous people within the ACT and I certainly hope that it would not be the case in the ACT.

Senator RIDGEWAY—On the question of COAG and COAG trials, I understand that the ACT is a host to one of those trials. You no doubt would be aware that the federal government at least have justified their decision to put in place shared responsibility agreements as being based on COAG trials throughout the country. As a member of MCATSIA and COAG, are you aware of any evaluation that has been done to highlight their success or otherwise? We are at pains to get anything from the government to demonstrate that. Are you aware of any evaluations that justify the decision taken by the federal government?

Mr Stanhope—Certainly at this stage there has been no evaluation of any ACT program. We are pursuing four separate initiatives within the ACT. As I said, we were the last of the jurisdictions to sign a COAG agreement. That was, as I indicated, on 15 October last year. We are progressing I believe very well, and with full Indigenous community support, with some of the issues developed through that process that do have the support of the Indigenous community here. But we have not got those to a stage yet where they are indeed fully operational, let alone capable of being assessed. So I can only answer for the Australian Capital Territory that there is no assessment within the ACT.

I am concerned at any suggestion the Commonwealth might make that its new notion of shared responsibility as exemplified through the Mulan agreement is in any way based on or can be supported by the fact that states and territories through COAG have agreed to cooperate through a program identified as and titled 'COAG shared responsibility'. As far as I am concerned, there is no relationship between the two programs.

Senator RIDGEWAY—Are you familiar at all with the Murdi Paaki initiative in north-west New South Wales?

Mr Stanhope—No, I am not.

Senator RIDGEWAY—I should explain it briefly. It is a regional council area that essentially took the step of putting in place community working parties or local assemblies and to create a regional assembly dealing with everything from the provision of health through to housing and so on. It is a structure, if you like, outside of ATSIC but countenanced by the regional council. They put a suggestion to us on Tuesday in Moree that, if it came down to midnight on 30 June, as far as the ATSIC amendment legislation is concerned, schedule 3 of the act provide capacity for whatever arises out of the ashes on 1 July to be recognised and to be listed in schedule 3. Would you be supportive of that type of proposal, given what you have outlined about what you would see as necessary within the ACT?

Mr Stanhope—I have a position that I have stated as our preferred position, but were I to be forced to negotiate on lesser positions or fallback positions then, yes, I would be prepared to at least negotiate or to give consideration to that.

Senator RIDGEWAY—It may well complement in the sense that it provides a legal interface with the Commonwealth.

Mr Stanhope—Yes, I take the point, and that is why I would be prepared to consider that. I would probably take some further advice on it. But my commitment to the Indigenous people of the ACT, and it is a commitment I made in the lead-up to my last election campaign and my subsequent successful election was that I would support a full democratic process within the ACT irrespective of decisions taken by the Commonwealth. So I have committed and I will keep my word.

Senator RIDGEWAY—Thank you.

CHAIR—Mr Stanhope, I have one question. You talked about the difficulty of working with the structure mainly in New South Wales. As you are also the minister responsible for Aboriginal and Islander issues within the ACT, what kind of interaction do you have with ATSIC and what kinds of interaction do you fear or think may change if this legislation goes through at the moment?

Mr Stanhope—Let me say I am fully supportive of the Queanbeyan regional council. I am not suggesting that we have had difficulties.

CHAIR—You made that very clear in your evidence.

Mr Stanhope—My suggestion is that it is not ideal and it is not ideal for the Indigenous people of the Australian Capital Territory and it has complicated communications between the ACT government and the elected Indigenous representatives of the people of the ACT, who are those four members of that Queanbeyan regional council who were elected from an ACT ward. I have currently, within the ACT, advisory structures at a number of levels. I have an Aboriginal and Torres Strait Islander Advisory Council. Four of the automatic appointments to the council

are the four members of the ATSIC regional council who are elected from the Australian Capital Territory. To that extent my major contact with ATSIC regional councillors is through my own advisory councillors, who are appointed automatically.

CHAIR—How many members are on that?

Mr Stanhope—Fifteen.

CHAIR—Fifteen appointed and four ATSIC councillors?

Mr Stanhope—No, I think it is five appointed, four ATSIC regional councillors and the other six or thereabouts members of the council are appointed automatically as heads of other Indigenous representative organisations within the ACT.

CHAIR—So their status is determined by other processes.

Mr Stanhope—Yes. I think the point I make on the way forward in relation to the ACT is that we are a discrete territory. Our lines of communication and the availability of advice have in the past been confused by this overlap and we have not been supportive of that as a matter of structural governance and believe it can be refined and improved.

CHAIR—Thank you very much for giving evidence this afternoon. Is there anything you would like to add?

Mr Stanhope—No. I have made the points I believe are important.

CHAIR—What has been happening is that the evidence has caused further questions when people look at the transcript. We will forward any questions on notice to you through the secretariat, and if there is an issue please let us know.

Mr Stanhope—Thank you. As I indicated, I will also confirm the situation with regard to confusion I may have created in a response to Senator Carr in relation to contact that has already been had in relation to the bilateral discussions. I may be wrong about that. I may have done a disservice to the Commonwealth.

CHAIR—It may not have occurred at the political level.

Mr Stanhope—No.

CHAIR—Thank you. We are going to conclude this day's hearings in Canberra. I thank all the witnesses and people who came to observe for their patience and cooperation.

Committee adjourned at 4.15 p.m.