



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF  
INDIGENOUS AFFAIRS

**Reference: Administration of Indigenous Affairs**

MONDAY, 31 JANUARY 2005

BRISBANE

BY AUTHORITY OF THE SENATE



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**SENATE**  
**SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS**  
**Monday, 31 January 2005**

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

**Senators in attendance:** Senators Carr, Crossin, Heffernan, Johnstone, Moore, Nettle 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.

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**Committee met at 9.47 a.m.**

**WILLIAMS, Commissioner Robbie, South-East Queensland Zone, Aboriginal and Torres Strait Islander Commission**

**WATSON, Mr Sam, Head, Sacred Treaties Group**

**CHAIR**—Welcome. I formally opening this public hearing of the Senate Select Committee on the Administration of Indigenous Affairs sitting in Brisbane. This committee was reappointed on 17 November 2005 in the 41st Parliament to continue the ongoing inquiry begun during the 40th Parliament. The inquiry has the same terms of reference to 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.

Before commencing, this committee acknowledges the traditional owners of this country. I thank the witnesses for appearing. The committee prefers all evidence to be given in public but should you at any time wish to give your evidence, part of your evidence or answers to specific questions in camera, you can ask the committee to do this and we will consider your request. However, I point out that evidence taken in camera may subsequently be made public by order of the Senate. There are members of the media in the room, including the *Courier-Mail*. If you have any objection to this, please let us know.

**Commissioner Williams**—Firstly, I would like to acknowledge the traditional owners of the land and welcome all the senators from far and wide—I know most of you and have met some of you—and all the support staff. I would like to acknowledge my fellow community member Sam Watson, whom many of you do know. I am very interested to know after the report what happens with the evidence that comes from this and whether there will be other opportunities in other regional areas throughout the nation besides places like Alice Springs and Cairns. I have over 45,000 Indigenous people in my region alone and I would like to know if, not only regionally but nationally, other Indigenous people in urban areas will also be given the opportunity to have their word.

**CHAIR**—Commissioner Williams, this committee have published scheduled hearing dates and locations and we have given that out through the secretariat. We will continue as a committee to review locations and need. At this stage we have a reporting date of 8 March, so it is about fitting the need to collect evidence and the approved hearing dates from the Senate. Should there be a desire for people to have further hearings or opportunities the committee would always be open to hear that. If people have a particular need for hearings they should contact the secretariat and we will look at and get back to them. Certainly we are continuing to receive evidence almost on a daily basis from people.

**Commissioner Williams**—I have a couple of points, and I know it is mainly targeted towards the service delivery and the administration of Indigenous services. One of the problems I have had, as you have had with your meeting today, is that, with 45,000 people spread over the region, there are many different clan groups and diverse groups and even in the urban setting of south-

east Queensland there are great needs. When people come to places like Brisbane, Sydney and Melbourne they think because of the infrastructure of the mainstream that Indigenous people must also be supported. I am very sorry but that is not the fact. At the moment the main government departments are in bedlam trying to set things up, and they will continue to go that way.

One of the concerns is that after March, if the bill goes through as it is set to, the commissioners will be gone at a national level. There will be no monitoring or review of program or service delivery at a federal level. What happens at the regional and state level then? At a regional and state level where there are regional councils there will not be that monitoring or reviewing process in place because they connect to a national level where the federal funding comes from. With the breakdown of that you have an appointed advisory group who will not be in opposition to what programs are being affected. They may be able to put recommendations up but that is not to say that they would be followed through with.

Also there is the continued funding. Everybody at the moment is under the understanding that ATSIC as a whole or the commission is dissolved or will be abolished. They understand that. To be honest I want to be able to get on with my life and get back into my community. I will never, ever be away from my community. The whole thing now is that we need to look at our kids coming behind us. You senators will be here for another three- or six-year term, hopefully, but what happens after that? What will go on after that? What will happen with the education systems? The majority of the Abstudy and all that that has been put in place now is going to the Northern Territory. The majority has been taken away from our urban areas. We have lost a lot of that from the urban settings. That is the majority of support that has been set up through the state. With the mainstreaming and the tendering program what is the actual backup for that? Who will monitor that at a regional level? You are all talking about the regional level. Who will monitor that? That is my concern.

You will not have regional councils after 30 June. If regional councils are in place, they will be virtually powerless because they will not be connected to a body. What happened when Geoff Clark signed the transitional paper, with Wayne Gibbons and that, was that it destroyed not only the department but virtually the power of the board of commissioners and the regional council in a domino effect. With that, the administration and everything got broken up and sent out to mainstream organisations. I will give an example in one mainstream department, community and family services. The majority of the Indigenous people who work in those organisations are the ones that went over from ATSIC. You can check your figures, especially in Queensland. The majority of Indigenous people that community and family services have now are black people that went from ATSIC. They had never had any before, but they got a majority of Indigenous funds. They provide services to our child-care agencies, our families, our mothers, our kids—all of those types of services. Yes, now our men's and women's organisations do have some black people in there, but very limited numbers. How long will they be there for?

In the public service, rules and regulations for those people being transferred have actually gone out the door. There will be another issue with DEWR, come June, and the tendering out of CDEP programs. CDEP in Brisbane and south-east Queensland has gone through a whole revamp. They are now using the city and south-east Queensland virtually as a guinea pig for looking at and putting in place different types of tendering processes for bookkeeping and accounting. They have tendered that out to a mainstream organisation, an accountancy firm.



There is an Indigenous group, an incorporated body, that has been put together. It has been made up of a number of different Indigenous people from throughout the community. But the unfortunate thing is that they have only got six months to go before that gets tendered out, in June, then they have to go up against other organisations like Mission Employment and people like that.

They are mainstreaming our services. You have said, 'We'll earmark the money and put it aside.' Earmarking the money is great, but it will just be given to mainstream services. That is what I am talking about: economic poverty within urban areas especially. When people talk about poverty you think about people begging on the street corner. Indigenous people throughout Australia have economic poverty. We have no infrastructure; we have nothing—especially in places like Brisbane and south-east Queensland. We have no infrastructures at all; nothing. I do not think that you are aware of that. In places like Alice Springs there are corporations that are sent \$38 million—we had nothing like that. We had nothing to be able to run anything against. We do not have farm centres like you do down in Victoria. We had nothing in south-east Queensland.

This is my first term as the commissioner. It is a very short term, but I came in here to fight. I probably did annoy your staff to make sure the meeting was here. If you did not have it here I probably would have done what Sam said and sat in on you and annoyed the hell out of you somewhere else. But the whole thing is that, in the short term I was a commissioner, I saw us have nothing. I have no problems with ATSIC being abolished. I have no problems if there is going to be a better tomorrow. At the moment I do not see it being any better tomorrow. I honestly do not. They have state government things already in place like ministerial forums and all that kind of stuff. Why don't the feds hook into those types of things? I will be honest. Half of the problem, and I do not care if it is reported or not, is with two people with the organisation. The Labor Party has just been through that. Back in 1996, the Liberal Party went through the same with the leadership role. What is wrong with an Indigenous group going through it? It just became more public through the media. The unfortunate thing is what is going to be there after June. That is the issue that I have. There will be nothing for our people.

The thing I am proposing for Queensland is having systems in place. We have so many advisory and reference groups now. We have community justice groups, community forums, roundtables, negotiation tables, Indigenous traditional owners and Queensland working groups. We have all these groups but the unfortunate thing is that none of them, except for some of the traditional owners, are duly elected by their people. Traditional owners are elected by their people. You are talking at the moment about an appointed body. Will they actually monitor? They will not. Why have they signed this confidentiality thing at the moment? If they do not get satisfaction around the table, they have to shut their mouths. Where will that go after 30 June? When their time is up and they have finished their contract and taken their little golden handshake, they will walk away.

Money does not worry me. As senators and my brothers here know, it is not about money. I have never had anything and I will die having nothing—it does not matter to me. The unfortunate thing is that there is not going to be anything left for our people. The majority of our people have nothing. One of my best friends lives in an urban area in a house of 20. State government housing is appalling. Do not think the problem is just in the outback; it is in urban areas. There is running sewage. Do not think it is just a state issue; it is a federal issue.

The federal government should work with the state government, with the ministerial forums that they have, and develop forums with housing, education, health, employment, economic development and community development instead of duplicating something again like they did with ATSIC. The state duplicated another forum. Remember when Judy Spence had the advisory committees with Uncle Bob and all those people with the Queensland government? The biggest problem was that there was duplication. You have one committee, you already have a majority of the people throughout Queensland and you have got the people that you do not want out already. You just need to talk to them and look at that.

What I am proposing does not touch money; it would just be a monitoring group like an estimates committee. Those types of things would do exactly what you do with your estimates committees. One of the great things while I have been a commissioner has been that I have been entitled to come down and look at your estimates meetings and all those types of things. That has been an opportunity. People like Warren Snowdon and Senator Moore have taken me to meetings. I had the opportunity to meet with you and have discussions with senators from the Northern Territory and the Greens. I have learnt from and heard and talked to people with all different types of political outlooks. I have heard a number of different things not only from Indigenous leaders but from Senator Heffernan's legal counterparts too.

But I am really concerned. I have only been in the job for two years. In that two years I have been hogtied and I have looked at what could have been. We are going to be the only Indigenous people throughout the world that will not have a political voice at all. Do you realise that? Every other Indigenous group throughout the world has a political voice. We will not have anything. Peter Garrett sang on the weekend for Wave Aid. We will probably ask Peter to come and bloody sing for us soon because we will need all the aid we can get. We will be the only Indigenous group in the world that will not have a political voice once ATSIC is gone.

Senator, you were involved in debating for and against the ATSIC bill. ATSIC might not be perfect, but it is something we have. What you are talking about and what you will be a party to in March is the destruction of the bill. By all means get rid of the commissioners. I am one of them. Flick us. The thing is: when the bill goes, there will never again be an Indigenous voice in this country. Do you honestly think you can re-create what it took two maybe terms to do? It virtually did take two terms. That is what is going to happen. Australia will be the only country that will not have an Indigenous political voice, and that is a shame. As much as ATSIC has faults, we need to fix it together.

**CHAIR**—Thank you for that. Are you now able to take questions from senators or do you wish—

**Commissioner Williams**—The other thing is that our view was not even taken into account when the review happened. That was a great concern.

**CHAIR**—Do you want to comment on that before I open it to questions?

**Commissioner Williams**—You can have the discussion now, if you like. I am sorry, I did not give Sam chance to speak.

**Mr Watson**—That is fine.

**CHAIR**—I intend to call upon senators in turn. Mr Watson, I thought we would continue with questions to Commissioner Williams and then move on to your statement. Is that okay with you?

**Mr Watson**—I leave it in your capable hands.

**Senator HEFFERNAN**—Could I ask you about Abstudy—that is, in urban areas versus out in the back country. Say I live in a suburb of Brisbane, the school bus comes to the corner and I can go to a school. Wouldn't the money for the person who is at Yuendumu be more important? Tell me about the break-up of Abstudy as you see it. I would also like you to tell me about the deal that Queensland has got out of the ILC. You say you have not got any money, like the farmers. I would like you to talk about that because the ILC, as you know, was originally set up for people who could not make a claim, and all the money has been spent where they can still make a claim.

**Commissioner Williams**—I thought the ILC was set up for urban areas. Urban blacks got nothing.

**Senator HEFFERNAN**—I would like to go and see where this running sewage is that you say is in Aboriginal housing.

**Commissioner Williams**—It is over at Stones Corner. I could take you over there now. Firstly, on the question of Abstudy: our families lived in remote areas for a couple of years—very close to your country out there but it was not in the Territory; I stayed in Queensland. People in remote areas have family networks, links and all those kinds of things, but when you come into an urban setting you need financial support. You have no roof over your head, you have no family structure or anything like that, no bread on the table, no food and no job. You do not get to school, you do not go to places. A lot of our families and our kids cannot go to all-black schools. We do not have that opportunity like they do in remote areas. We have to mix it with others.

Two of my three daughters have disabilities. They are the only three black kids that go to that school, a multicultural school. They do not need Abstudy support—I would not allow that. There are more families who need that support, and for those parents there are still school uniforms, tutoring and all those types of things. The majority of funding now is more tied up application-wise instead of number-wise, and that is how it has been set up. It is more application driven. It is not needs driven, as it should be, to where there is specific need; it is application driven. That is where the Northern Territory and others, where there are the numbers and whole Indigenous schools, blow us away. Can you imagine the number of non-Indigenous people we have throughout south-east Queensland schools? If we have 45,000 Indigenous people, and say 45 per cent of them are under 25, a majority of them would be going to school, wouldn't they? How can they make all-Indigenous schools? We have one all-Murri school on the south side of Brisbane. Kids come from everywhere to go to that one school, don't they, Sam?

**Mr Watson**—Yes.

**Commissioner Williams**—They have just opened up recently, in the last year or two, to go from years 8 to 12. They do not take in primary students. Schools in the Territory take in primary students, don't they? If they are state government schools, the majority of them are Indigenous.

We do not have that opportunity. That is where it is disadvantaging our people in urban areas. I know a lot of federal and state money goes into the same bucket but the problem is that, when you have Asperger's and that kind of problem, it does not work. Our people have enough to cope with day-to-day, living and working. Getting proper housing is a problem. Racism is a problem. You would think there would not be racism in an urban area. You think bridge walks and all that kind of stuff has skewered it? Bullshit! It has not gone even close to it.

**Mr Watson**—Aboriginal families across Australia face severe disadvantages because of the sheer economics of the situation—the fact that we have such a massive unemployment rate within our community. The Prime Minister has made much mileage out of the fact that the national unemployment rate is now five per cent. We can take you into communities in Woodridge, Logan City and the north side where the Aboriginal unemployment rate is 85 to 90 per cent. I have eight grandchildren and each of those little ones is starting state school at various stages. Over the last four weeks their parents and families have had to find approximately \$1,000 per child just to put them into uniforms and to buy them shoes, books, pens et cetera.

**Commissioner Williams**—And they are not brand new, they are second-hand.

**Mr Watson**—As the commissioner pointed out, our families have conflicting priorities. They have not got the capacity to spend \$1,000 per child to put them into new uniforms and to buy them new books et cetera. They are flat out putting bread on the table because the massive unemployment impacts all the way down the chain. Abstudy is a critical means of addressing those basic imbalances and getting those kids into school. As a teacher at the University of Queensland I can tell you that each year we take in the end product of that process—approximately 200 to 250 Indigenous students. Over the last 10 to 15 years we have noticed the change. These young people are not feeding through to the arts and humanities subjects anymore. Last year, for example, we had a young girl who started engineering. This year we have young kids with very high OPs—some of the highest in the states—who are feeding through into dentistry, law and medicine. A large part of that can be attributed to the impacts of Abstudy. This is really what the entire struggle has been all about over the last 20 or 30 years—providing empowerment within the community and within the family and getting these children through the system and up into universities and colleges.

**Senator HEFFERNAN**—There are some winners and some losers though?

**Mr Watson**—Yes, dramatically so, and right across the community most of our mob are losers.

**Senator HEFFERNAN**—Has ATSIC failed?

**Mr Watson**—It has been an enormous success. If you map the ATSIC elections in Brisbane, you will see that there has been a dramatic increase in the number of Aboriginal and Torres Strait Islander people who have participated in the elections and in the candidacy. Aboriginal and Torres Strait Islander people have taken ATSIC on board. At the first election there was initially a great deal of suspicion about ATSIC and the process but, as it has followed through, we have had a significant impact at each election and an increase in the participation rate by Indigenous people right across the Brisbane area.

**Senator HEFFERNAN**—It is a fait accompli that ATSIC is going to go—both major parties have agreed to that. I am anxious to hear, and today is not necessarily the time, exactly what you people think we should do for the future to make sure that the issues you have raised do not become a reality.

**Senator CROSSIN**—This is the time to raise that issue.

**Senator HEFFERNAN**—I do not know how much time we have now but if you need more time than we have today I am happy to listen.

**Commissioner Williams**—The thing is, if it is not broken you don't fix it, but if it has a couple of bumps in it you straighten it out. The board of commissioners should have been straightened out well before now. I will be honest: the government should have set their guidelines down and all that stuff and the board should have been straightened out. It is no good developing an advisory committee, as Amanda has done, because that does not help—it just adds more salt to the wound and disillusions people about where we are going. For example, there was the idea of putting a person like Wayne Gibbons into the CES. He was with the Department of Foreign Affairs and Trade with the 'people overboard' business—all that kind of stuff. We are not stupid. I was not on the board at the time but I know what would have happened if I had been on it. Wayne could have done a good job if he had been given direction. The board of commissioners should have been given direction and so should the chair and the regional councils. All of them should have been given direction. We should have done it at a reasonable level. Instead of working from the top down we should have worked from the bottom up. You talk about things like regional agreements and all that kind of stuff now but the horse has bolted. After this will come bigger headaches for you. I am not kidding. You think you have got headaches now but you are going to have bigger headaches. I really mean it.

**Senator HEFFERNAN**—Do you want to be part of the solution?

**Commissioner Williams**—I want to be part of the solution and I will be part of the solution. Being with ATSIC is not a reason not to be part of the solution. Just being black will be part of my solution. I will be involved in some political way, because I have got political aspirations in other ways. I got involved with ATSIC through people like Sam, who I have grown up with. I have learnt my trade through people like Sam, his father, his family and other people. The thing is, it is only a stepping stone. The unfortunate thing now is that I will not be able to help my people anymore through ATSIC, but I will help my people in another way. The only way for us now is to be able to have allowances in mainstream politics.

**Senator CARR**—Your concern, Commissioner Williams, is the replacement—what is the future? That is the main thrust of your submission?

**Commissioner Williams**—That is my concern, yes.

**Senator CARR**—You are saying—if I understood you correctly—that, as far as you are concerned, an elected Indigenous representative body is critical to giving Aboriginal people a voice in Indigenous affairs in their country. Is that correct?

**Commissioner Williams**—That is right.

**Senator CARR**—The Prime Minister has described the NIC, the National Indigenous Council, as an advisory council made up of very eminent and wide-ranging people who will be a ‘principal source of advice to the government’ on Indigenous issues. He said that in December. So what is wrong with that?

**Commissioner Williams**—They are not elected.

**Senator CARR**—They are not elected. Do think that is the critical issue?

**Commissioner Williams**—They are not elected. That is critical. Honestly, they have not been through an elective process, like yourselves, to truly represent their people, be it through clan, family, group representation or community representation. There has not been an elective process put in place. One of those people has been through an elective process, but it has not been for that position.

**Senator CARR**—So your view is that without some form of election, be it through planned representation or some other method, those people have no authority. Is that the point?

**Mr Watson**—If I may comment on that: if the Prime Minister is so uncommitted to that process then why has the Australian government taken such an active role in the elections in Iraq? The people of Iraq have just gone through a democratic process and the votes are now being counted. The ballot boxes have been closed and the votes are now going to be counted, so the people in Iraq will, out of this process, be served by an elected body. Yet here on the domestic front Aboriginal people are being denied that capacity to elect our representatives. So, if it was good enough for the people of Iraq and worth the expense and the amount of blood-letting et cetera that occurred to arrive at an elected body, why can’t Aboriginal people also have access to a democratically elected body, which is what ATSIC is? ATSIC has a mandate—a mandate that has been secured over a number of successive elections.

**Senator CARR**—The second major point you are making in both your submissions goes to the question of mainstreaming government programs. The two points are related: the capacity to actually speak out, to monitor programs and of course to actually have a say in how policy is developed and the effect of mainstreaming programs. Mr Watson, you spoke particularly on education. You said you work at a university.

**Mr Watson**—The University of Queensland.

**Senator CARR**—The latest government statistics show that the number of Aboriginal people starting university has fallen yet again. In the last figures, there has been a drop of about 15 per cent in the number of people starting.

**Mr Watson**—Is that for this current year?

**Senator CARR**—It is 2003. The triennium report comes out a few years later. Is this an example of where mainstreaming has failed? ATSIC never had education as part of its work. It was always done through the education department.

**Mr Watson**—I have the figures from the University of Queensland, and our figures have increased significantly each year. Here in Brisbane our students have access to other options, such as TAFE et cetera. There are other courses. Within this market, other institutions aggressively court Indigenous students.

**Senator CARR**—That is true.

**Mr Watson**—So at the University of Queensland, without blowing our own trumpets, we really do attract the cream of the academic crop.

**Senator CARR**—But across the country there has been a drop of 15 per cent.

**Commissioner Williams**—That will continue to increase, because there will be a reduction in support within the administration.

**Mr Watson**—Support within the structure.

**Commissioner Williams**—Yes. There will be a reduction in Indigenous support within the structure of the university.

**Senator CARR**—So there are 115 fewer students starting.

**Commissioner Williams**—Yes, and it will get worse.

**Senator CARR**—Look at the figures for the Public Service. The *Indigenous Times*, for instance, recently published the number of senior executive officers, which, since the abolition of ATSIC, has dramatically declined. The Public Service report shows yet again this year a decline in the overall, absolute terms—and percentage terms as well—in the number of people from an Indigenous background employed in the Public Service. Do you see that improving?

**Commissioner Williams**—No.

**Mr Watson**—Because what ATSIC provides is a culture in which young people can come forward, be trained in the skills and go on to higher things. ATSIC has also been a major employer of Aboriginal and Torres Strait islander people across Australia. Through its programs and services, ATSIC has provided families with a means of support so that families can then afford to put their children through the second layer of secondary school and into university. So ATSIC has been an enormous influence in people's lives.

**Commissioner Williams**—As Sam is saying, one of the things is that ATSIC played a major role in the Public Service units, setting up support groups, being involved in the Public Service unions and all that kind of stuff. The Indigenous component was a major input from ATSIC. They were concerned not only recruitment-wise but with all that kind of stuff, including education, right throughout the whole thing. They were involved in the Public Service, universities and primary and secondary education—right through. That is what I am saying: it is only the start.

**Senator CARR**—I have two questions that I would like to conclude with. The government will say, 'There are regional structures in place and the state government should take more responsibility in these areas.' I am particularly concerned about that issue with regard to Palm Island. I have not said a great deal about it, other than a few things I have done in the parliament. I see that Mr Brad Foster today has made some comments concerning the turning off of electronic equipment in the police station. Are you aware of those comments?

**Mr Watson**—Yes. I had a meeting with Mr Foster yesterday afternoon and I have a copy of his press statement here.

**Senator CARR**—Could that be tabled, for the committee's edification. Is it possible to have a copy of that?

**Mr Watson**—Yes, that would be possible.

**Senator CARR**—How adequate do you think existing regional structures are for the actual advancement of Indigenous peoples, for instance, through the police services and the like?

**Mr Watson**—I will give you an example of what happened in November 1993. We had a very unfortunate situation in which a young person died in custody here in Brisbane. The community reacted immediately. It happened on Sunday, 7 November 1993. That night, the community met. Robbie was not a commissioner at that stage, just one of the senior people involved in the community organisations. The senior people met throughout Monday and Tuesday. After full consultation with the family, we then proceeded on a course of action. At that stage the CJC was in place and the CJC announced an immediate inquiry. The family of the deceased person then retained the services of the Aboriginal Legal Service in Brisbane. We then went to Canberra because, under the system that was in place at that time, the level of funds we were seeking for the inquiry could not be addressed by a regional council; it could only be addressed through national funds in Canberra. We were able to meet with commissioners in Canberra and the commissioners in Canberra accepted our submission and funded us right the way through the CJC inquiry.

Under the system that is in place now with all this vacuum, in the directions hearing that is going to be called within two weeks, the council have legal representation because they have been funded through the Queensland government. The family do not have legal representation because their solicitors of choice—their legal representatives—are based in Sydney. Therefore there is a problem negotiating with the Queensland government, who would prefer to fund Queensland based practitioners. The Aboriginal people—the community, the council and the family—have no Aboriginal agency to negotiate with, as ATSIC have done in the past. They now have to deal directly with the premier et cetera. So that is an enormous problem.

There are very real issues involved in this particular death in custody that have to be addressed and resolved not only by the people of Queensland but by the people of Australia. These deaths in custody have to stop. They will only stop if all Aboriginal people standing in these matters have the highest level of quality, professional representation. That is not going to happen unless there is enormous agitation and representation from community groups, such as the Brisbane people. So there is a huge flaw.



**Senator HEFFERNAN**—Is there a reason why there isn't that highest-level representation in Queensland?

**Mr Watson**—Because it is not going to be funded. Under this vacuum we are now operating in, the practitioners come forward and offer their services but there are no funds available.

**Senator HEFFERNAN**—But are you saying that they have to go to Sydney to get representation?

**Mr Watson**—There are particular issues to do with forensic matters at a forensic inquest that—

**Senator HEFFERNAN**—That are not available here in Queensland?

**Mr Watson**—No. We have had opportunities in the past to look at the relevant qualifications of practitioners who come forward and in the past we have chosen leading practitioners from either Sydney or Melbourne.

**Senator CROSSIN**—Are you not able to get legal representation through Aboriginal legal aid?

**Mr Watson**—They do not have the funds.

**Senator CARR**—They are also likely to have their services tendered out as well—

**Mr Watson**—That is right.

**Senator CARR**—so their capacity, presumably, will be affected over the longer term.

**Mr Watson**—Their staff do not know whether they are going to have a job after March or after 30 June.

**Commissioner Williams**—You also have to remember that, with the process, Palm would go through Townsville. Like Sam said, now it is a national bid. It will go to a bureaucrat down there who is not on the ground, who is not on the board of commissioners—

**Mr Watson**—Someone who has never been to Palm.

**Commissioner Williams**—That is exactly right. They will not have that interest. Not only will they have to be support for the family but they will also have to take on virtually the Queensland government for it.

**Mr Watson**—I will just expand on that. In the past, we have had regional councils, which we have elected, that we dealt with in ATSIC. We also had a commissioner whom we elected and whom we dealt with. We were then able to go to a board of commissioners in Canberra, which also had mandates. Who is the family, the council and the community of Palm Island going to deal with now except some faceless bureaucrat on the end of a phone line? As I said, we will

have a directions hearing very shortly and then we will have an inquest. It is absolutely critical not only for Aboriginal Australians but also for white Australians. There is a straight ethic of a national fair go. Our people have substantial issues with the manner of this young person's death, and those issues need to be resolved.

**ACTING CHAIR (Senator Johnston)**—Could you tell us who the family have applied to in Canberra?

**Mr Watson**—They have applied to state legal aid. That is where it is at the moment. They will have applied through—

**ACTING CHAIR**—The Attorney-General's Department. Can you tell us what you have actually applied for? I take it you have applied for a silk, a QC.

**Mr Watson**—Legal representation.

**ACTING CHAIR**—Do you know the specifics?

**Mr Watson**—The highest standard.

**ACTING CHAIR**—So a QC and a supporting solicitor.

**Mr Watson**—Yes.

**ACTING CHAIR**—How long is the inquiry likely to last?

**Mr Watson**—Weighing up the evidence list and the number of witnesses, I would say at least two to three weeks. So you are looking at a fairly hefty—

**ACTING CHAIR**—You are looking at somewhere around \$50,000 to \$100,000 worth of legal costs.

**Mr Watson**—That is right. Again, it is not the Aboriginal people who have sought this situation. We are not the ones who have fixed the pricing structures that the Queensland or New South Wales bar operate under. These are matters totally beyond our control.

**ACTING CHAIR**—Senator Carr, do you have further questions? I was going to get Mr Watson to give his statement to the committee and then we can come back to questions.

**Senator CARR**—Have you got that statement from Mr Foster?

**ACTING CHAIR**—It is coming down. Here it is here.

**Senator CARR**—Can I ask an interregnum question?

**ACTING CHAIR**—What is that?

**Senator CARR**—While we are waiting.

**Commissioner Williams**—That one confused me!

**Senator CARR**—In your submission you draw our attention to the proposition that the government does not intend to dismantle or abolish the Torres Strait Regional Authority. You say that this is an absurd and unacceptable situation. I could not agree more—I think I understand that that is the reading the committee has of it. Have you had any explanation of why it is that the government has one approach in regard to ATSIC and another approach in regard to the Torres Strait Regional Authority, which essentially performs similar functions?

**Commissioner Williams**—I have no answer at all. I have met with the minister as well as the senior adviser Russell Patterson, and they gave no reason. That was the way the Prime Minister and the government felt and that was the way they were going to go. The bill was drawn up by the bureaucrats at the time, and that is one of the reasons why I saw a number of senators down there at that time—to ask for an inquiry to find out why, because I could not get a straight answer.

**Senator HEFFERNAN**—I want to talk about the future and what the solution for the future is. In 1999 I paid for and had a study done on abuse in Indigenous communities. As part of that study, we looked at all new inmates that were put into Long Bay Prison in Sydney. About 55 or 60 per cent of them were abused kids. Do you have a study of the incarceration rate versus the abuse rate in your communities—and of people who are the victims of deaths in custody—to find out what has happened in the past? Do you do that sort of work?

**Mr Watson**—Within our community, we have leading academics such as Dr Boni Robertson, who do have material. There needs to be a comprehensive study undertaken because what we are dealing with are very sensitive issues that have been hidden for some time. People like Robbie and I—and other senior people in the community—would welcome the capacity to undertake that review. If you look at the lives of the 99 people whose deaths the Royal Commission into Aboriginal Deaths in Custody studied, you see an enormous correlation between the issues that we are dealing with in the *Bringing them home* report et cetera and their coming to the attention of police and correctional authorities.

**Commissioner Williams**—I know what you are heading towards. That is one of the reasons why we need to have bodies and statutory bodies like ATSIC that are not hogtied by government bodies and are able to talk to people like you and other senators and raise those concerns. You can then work with people like us. At the moment, with an appointed body, to have confidentiality, they cannot do that.

**Senator HEFFERNAN**—Boni helped us in that study in 1999.

**Mr Watson**—Aboriginal people would not come forward to an environment like this to talk about those sorts of issues.

**Senator HEFFERNAN**—To tell their story—I agree entirely.

**Mr Watson**—They would come to Aboriginal representatives and they would tell the truth about what had happened.

**Senator HEFFERNAN**—There is no doubt about that.

**Commissioner Williams**—The hard thing is that back in 1993 there was the incident with the young boy that Sam was talking about, and nothing ever came of that. I very much doubt something will come from Palm, because it has been destroyed there—all the evidence and everything, coincidentally—but we have already had something drastic happen in Brisbane. As I was saying, I do not like to use those examples, but what else is going to happen to us?

**Senator SCULLION**—I think it is important. One of the principal charters of this committee is to look at, as you say, what is going to happen in July. One of the major concerns is, as I understand it from the minister and the office—and I have seen documents; I do not have one with me—that the regional councillors were asked at a meeting to say, ‘Look, one of the principal roles is to provide us with some advice about the consultative arrangements in the future.’ What do you want? Do you want the regional councils to stay? You have touched on local forums. It is going to be very useful for us to utilise the existing state forums that are around for advice. But I would like the views of both of you, Mr Watson and Commissioner Williams: what would you recommend that the consultative arrangements at a regional level should be?

**Commissioner Williams**—I will be honest. Your national bodies are there for three years, aren’t they? They are there for three years now, but you still need to have those types of regional bodies at a local level. At the moment, because you are looking at the bill in March, there need to be some changes or someone needs to look at things after 30 June and some type of regional agreements or set-ups need to go hand in hand where they are put in place. However, within each of those regions you also need some type of coordinator who then can hook up a network throughout the states. It would be good to have a national voice, but you also need to have that national monitoring process. Unfortunately, I do not think you would have that with those advisory bodies.

**Senator CROSSIN**—Following on from that, Senator Scullion has made mention quite a number of times in this hearing about the minister’s statement to ATSIC regional chairs regarding future consultative regional forums. Are you aware of any such comments by the minister about establishing regional bodies post 1 July?

**Commissioner Williams**—The regional chairs have had meetings with the ministers themselves. They do not and will not include commissioners.

**Senator CROSSIN**—You have had no report back from your regional chairs about it?

**Commissioner Williams**—No.

**Senator CROSSIN**—One of the fundamental things I think we have found in this inquiry, from Broome to Gove and even in Alice Springs, is that regional areas or councils are developing different models. There is no one-stop shop anywhere anymore. But one of the fundamental flaws I see in this legislation is that there is no provision for the government to

formally recognise those new bodies as they evolve. It would be interesting to talk to government agencies on Thursday and Friday, but I understand that there is no formal direction to even the ICCs or their coordinators to establish regional consultative mechanisms in any way. Do you perceive that as one of the problems in this calculation?

**Commissioner Williams**—The ICCs have virtually no funds now, because they are just coordinating bodies—Indigenous coordinating centres. The unfortunate thing is: why are groups and, especially, the state going to talk to those bodies if they are only coordinating bodies? The majority of them are non-Indigenous. The OIPC manager Shane Williams, who is the state representative, has just come over from education to the old ATSIC. Shane is trying to come to terms with how it works, and he has to negotiate with all these other government departments. He is virtually walking from the pot into the fire, and he is trying to restructure all this stuff and negotiate and work with all these other government departments—and he comes from an educational background. You virtually need a community development background now to be able to develop those skills, especially when working with diverse groups like those in Queensland. In south-east Queensland alone you might have 40 traditional clan groups, and Queensland has one of the strongest, most vocal black communities in Australia.

**Senator CROSSIN**—So is it a flaw in the proposed legislation that there is no formalised process to establish regional councils or areas?

**Commissioner Williams**—The one here is an example. They tried to set one up here and they did not even have terms of reference. I was trying to set up something that was very much like the congresses they have in the Northern Territory. I looked at the American Indian style of things—the way they have it over there, especially in Canada—when I first started talking about setting up a congress. We were bringing in expertise from service providers right throughout it all. Before there being any talk of ATSIC, I wanted to have an advisory group and all that kind of stuff—people and community representatives—and set it up that way. Then everything happened, and it kind of blew up. Now we have had people from Canberra come out—you can virtually call them experts in the community—and tell the chairpersons throughout the state what to do. The unfortunate thing is that those chairpersons are now trying to set things up within their regions but they are not going to have any way of being able to because they only have from now until June to do it.

**Senator HEFFERNAN**—Did ATSIC disagree with your proposition for a congress?

**Commissioner Williams**—The regional council did, because they saw it taking something away from them. They were elected there and, as I told them, this would just have been in an advisory capacity.

**Senator HEFFERNAN**—What did the rest of the board think about it?

**Commissioner Williams**—The board at a national level?

**Senator HEFFERNAN**—Yes.

**Commissioner Williams**—The board were cool, because they were doing the same thing themselves. The Northern Territory had already set it up.

**Senator CROSSIN**—They had set up the Central Australian Aboriginal Congress, but it only deals with health issues.

**Commissioner Williams**—Yes, but originally it was set up to do other things. Then they virtually made it into a body that only deals with health. But in America, with the American Indians, they have expertise in several different areas.

**Senator HEFFERNAN**—One of the problems with the congress in the Territory, from my understanding, from talking with the congress, is that a lot of the money that left Canberra via the Territory government never found its way to the target.

**Senator CROSSIN**—That was under the CLP.

**Senator HEFFERNAN**—I do not care who it is under.

**Commissioner Williams**—With the congress that I was talking about and trying to set up, you would have—and maybe this is the way: it would be like the ILC and people like that—a financial arm that would look at and monitor that type of stuff. You would not put money anywhere near what we are talking about. We are talking about recommendations, advice and outcomes—exactly what we are talking about with the grants commission. We are not looking at developing or setting up another level of government but another monitoring process. At the moment that is not in place, and that is the unfortunate thing. You tell me what the ILC are doing—at the moment, especially in urban areas like south-east Queensland. We did not see much of the review that the ILC did. I think there were about two or three properties, and that was about it.

**Mr Watson**—I really did cover the majority of what I was going to say during the comments that were just made. My main concern with the bill is the fact that it seems to be winding the clock back to the pre-fifties or pre-sixties. Our entire struggle and movement forward from the 1960s has been to secure us the means of having a real say and a means of being able to act on that say in shaping and determining our immediate environment. In 1965 with Uncle Charlie Perkins and the freedom rides we fought against segregation. In 1966 we had the Gurindji strikes to fight for equal wages. In the lead-up to the 1967 referenda we fought to be accorded the respect and privilege of just being regarded as ordinary Australians and we were finally counted on the national census.

Coming into the later sixties and the seventies, with government support we were able to set up survival programs and services to address the enormous needs within our communities. We set up legal services, medical services, housing services et cetera. The government funded those. We were fighting against a history of massive white bureaucracies always making decisions on behalf of our communities and our families. Through the 1960s and 1970s we were able to establish organisations, services and programs that we ran ourselves. Most of us came into that situation with very little formal training. We had to learn as we went when we built those organisations. The theme for that period was self-determination—black control of black affairs. That is what we cut our teeth on: the need for Aboriginal people to be able to make our own decisions.

We came through a history in Queensland of very severe protectionist acts that dated back to 1897. In 1897 the Queensland government introduced the Aboriginals Protection and Restriction of the Sale of Opium Act. We see this act as taking us back to that point, back to a protectionist period where Aboriginal people are not entitled to make our own decisions and are not entitled to chart our own way forward. We have significant and substantial problems right across our community, as the commissioner and I were pointing out. We have crucial needs in the areas of employment, housing, education, health care et cetera. These needs will not be addressed properly by a system that is driven by white bureaucrats who are in no way accountable.

Accountability is supposed to be one of the great catchcries of the current political administration, but how, under this act, will the bureaucrats who are going to administer our funds and our services be in any way accountable to Aboriginal people who are at the coalface? Who is going to answer to the family and community on Palm Island, if they have to go into the forthcoming inquest—or whatever trials and legal proceedings arise from that—without any decent representation? No-one is accountable. We have political figures screaming at us, ‘You’ve got to be more accountable,’ but that cuts both ways. Who is going to be accountable to us? Who is going to be accountable to Aboriginal people here in the Brisbane area who are looking for decent jobs and decent housing? We have public housing stock at an all-time low. I took an Aboriginal family to the Queensland Housing Commission last week. They registered and they are going to have a five-year wait, and they are living in a place now that has 15 adults and six children. That is unacceptable. That is absolutely unacceptable.

Right across the broad parameter of needs, our community is there at the bottom. Their needs are not going to be in any way resolved through this bill. It is going to be a massive step backwards, because who are our mob going to talk to when all this happens? They are not going to be able to go to Logan Road, Mount Gravatt and talk to Robbie, their commissioner. They are not going to be able to come to the organisation that I am involved with, because it just will not be there any more. We will not have the opportunity, like other Australians, of being able to vote for our own representatives every three years. That will stop. So in no way will this system that is being put forward by this bill be in any way accountable to Aboriginal people.

In the preamble, the financial impact statement, it says that there are going to be savings of \$79 million over four years, but you cannot put a dollar price on what the impact will be on Aboriginal people. We have spent all these decades of struggle getting to this point—like the people of Iraq over the weekend who had the courage to go to the polling booths and lodge their votes. They fought, and we fought for years and years to get our mob to the polling booths for the ATSIC elections. They were starting to build up confidence in the system, because there happened to be real changes coming through. Our mob were getting jobs, there were some houses coming through the housing organisations and, with the medical services, we were getting doctors and dentists. Murri Watch was doing great work in the watch houses. There was real, measurable change. But all of that is going to change after 30 June.

We are going to be back to, as I said, this dark place that existed before 1960, and that is a great concern because driving this entire renaissance within Aboriginal Australia has been this capacity to make our own decisions, to run our own organisations and to design our own services and programs. And that all stops—and we will go back to a faceless, non-Indigenous bureaucrat on the other end of the phone. There is going to be no infrastructure there. As the commissioner pointed out, ATSIC had problems. We knew that, but we did it Murri way. If

people had problems with Robbie or other members of the regional council, we would call them to meetings and we would do that business over there at Musgrave Park. We would sit down and talk the business through—why was that done, why did this not happen et cetera.

ATSIC was accountable to us at all times, at every stage of the development. Robbie was always there as the commissioner, and our regional council was always there. If we called them to a community meeting, they came and sat down with us. There was no violence, no drama. Our mob just needed them to be accountable to us for what they did. But that stops. And that is one of the great tragedies of this current political environment: we seem to be hostage to a chain of events over which we have no control. A slugfest seems to have developed between non-Indigenous political leaders and Indigenous political leaders, to the detriment of our people, our community and our families.

**Commissioner Williams**—And the rest.

**Mr Watson**—That is very sad. That is a great tragedy because, at the end of the day, the people who are going to suffer are those little kids. As I said, we are fortunate in my family because both my wife and I have reasonable jobs and we are able to pay to get those kids, our little grandchildren, into schools. But how many Aboriginal kiddies around Australia do not have Nanny and Poppy there to do that and to get them a new pair of shoes? I spent yesterday fighting tooth and nail in Garden City because they had a big sale on shoes there, so we were able to bowl up there and buy six pairs of shoes at a reasonable price. That meant that our kids are going to have decent shoes to go to school in. That all impacts on a child's attitude to the whole learning process. If they are dressed properly and they have the books and if, when they go home, they have a reasonably clean space to work and do their homework in, that just engenders so much confidence within those kids.

As I said, working at the university I can see what is at the other end of the scale. There are these young people coming through. We have orientation week in three weeks, and that is one of the proudest days of our community. Commissioner Williams, as always, will be there when we welcome our new students from the secondary schools into our university. They will start their journey forward towards their degrees.

I really do feel fearful about the environment that is going to be created through this bill and through the stripping away of all the infrastructure that it has taken so many years and so much sacrifice to put in place. This year, for example, we honour the life and work of Charles Perkins on 12 February, because 12 February was the day that the Freedom Bus left Sydney in 1965. The Freedom Bus travelled throughout New South Wales and exposed the racial segregation of places like Walgett, Moree and others. These people gave us a legacy, but that legacy also is being stripped away by this bill, and our people and our community are being taken back to a point from which we will have enormous problems in rising.

My main areas of concern before this committee are the impact on the morale of our community and the impact of the stripping away of our right to make our own decisions. ATSIC election day was an enormous day in our community. We were out there, doing the business. We were there handing out how-to-vote cards and peddling votes. You have all been through that. You cut your teeth on that. That is not going to happen, because our mob do not vote in local government elections. They do not vote in state government elections. They do not vote in



federal government elections. They will come to ATSIC, because they know the people—they know Robbie. And they will come, and they will vote for Robbie.

**Senator HEFFERNAN**—Thank you very much for that. That recognises both the successes and the failures of the past. If I were one of the 40 per cent of kids of school age at Yuendumu who do not go to school, wouldn't it be fair for me to say that the system had failed me?

**Mr Watson**—I am very careful about who I speak on behalf of. I have never been to Yuendumu, and I have no mandate from that community. If you want to talk to me about the Brisbane mob, I will talk about the Brisbane mob.

**Senator HEFFERNAN**—What I am really asking is: do you think we can learn from the failings? Robbie, do you think that—

**Senator CARR**—I will put it more generally. Education has been mainstreamed for a long time. How successful has education been in terms of lifting attendance rates and trying to get more people into university? We do not have to talk about specific communities.

**Mr Watson**—You cannot just say: education, one block; health, one block; employment, one—

**Senator HEFFERNAN**—The whole fits in. If you haven't got the lot, you have got nothing.

**Mr Watson**—In our mob, everything in the house is impacted on by what goes on outside the house.

**Commissioner Williams**—What Sam said about those pairs of shoes is exactly right. Those pairs of shoes mean so much. One of my girls might not even be able to walk properly, but she wants a pair of shoes—with her mind. Sitting there at the desk, on her bum, she doesn't even use her feet properly, but it is her way of hooking in with everything. But the whole thing is that we are lucky. Like Sam and his wife, my wife and I have our own support network. The hard thing is that some of the education systems within communities and so on do not have networks in place. But it is not just a question of that little kid not going to school: there are problems with education, with employment, with health and with family set-ups and structures. There are lots of other reasons.

**Senator HEFFERNAN**—Do you think we will be able to come to terms with that? Whitefellas have as many failings in their community as blackfellas. If you have not got good health or education your job prospects are pretty low.

**Mr Watson**—That is right.

**Senator HEFFERNAN**—In some of those remote communities a lot of the adult population are bored shitless and stay up all night and sleep all day. That is why the kids do not get tucker or go to school. I am anxious to see the model for the future, given that there have been some failings with the present model. There has been a lot of goodwill. All those battles that Charlie Perkins and those people fought had to be fought. I put some seed money into the Indigenous

young leaders program. I actually put the first money into it—I do not know whether you are familiar with that—and I do not even know what has happened to it.

**Mr Watson**—There is no word in the Murri community for ‘leaders’.

**Senator HEFFERNAN**—I am a white—

**Commissioner Williams**—With that young leadership thing—and I know what you were trying to do—there is a certain amount of segregation that that creates.

**Senator HEFFERNAN**—I stepped away from it because it became too—

**Commissioner Williams**—It creates segregation sometimes within our communities. Senator Claire Moore knows me and you probably all know me. What you see with me is what you get. Rough, tough, knocked around and kicked in the gutter a few times—like I have heard about you, Senator—I am sorry that is the way I am. I have been through a heart attack, a stroke and everything. Sam will tell you that I used to be three times the size I am now. I have had to lose weight. With what ATSIC has been through in the past 18 months or two years, if I was the size I was I probably would have been dead because of the stress and the strain we have been through. The sad thing is what I fought for to get there and to do something is not going to be there any more. It is exactly like Trish said about putting it in place. How long did it take? We have been here for over 200 years. You are going to destroy in 12 months what it took 15 years to create. We were getting close to it but we just had to fix it up.

**Senator HEFFERNAN**—I would like to think that we are not, with respect. I would like to think that we are going to repair and recognise that. As you said, there were some failings at the board level.

**Commissioner Williams**—You ought to say something to your bureaucrats because they are the ones going around saying that there is not going to be a black organisation standing. They are not going to be there.

**Senator HEFFERNAN**—There are lots of people who the present system has categorically and catastrophically failed.

**Commissioner Williams**—My mob in south-east Queensland have been devastated by the people. We have not got shit. When I talk to people from other areas around the nation, my God!

**Senator NETTLE**—I agree with what you are saying about the lack of accountability and not having elected representatives and turning your back on self-determination. How many studies do we need to produce to say that this gets us the best outcomes? I want to ask about governance. Where do we go now with communities being able to say to government, ‘This is what we want. You are taking away what we have spent 15 years creating. You are taking those things away. If you are going to take those things away, then you need to listen to us when we say this is what we want’? What are the best ways that you can think of for communities being able to have that discussion and bring that discussion to government in a way in which is going to be meaningful? We can have a Senate inquiry but that is not talking to communities about what communities want. I just want to hear your thoughts on how we allow that to occur.

**Commissioner Williams**—One of the things that Senator Trish was saying before was about the ICC. Part of the stuff that the ICC and the OIPC are trying to do at the moment, through their mutual agreements, is exactly what you are talking about—with community groups. But the problem is that they are trying to deal with communities and clan groups and family groups. They do not have the governance. They do not have that kind of stuff that you are talking about. Organisations, incorporated bodies, have that governance. They have been through election processes for board members and all that kind of stuff. Some of the ICC people and government departments are trying to make our people what they are not. Some of our people in those government organisations have got brains and some of the government departments do not want to deal with them. They would rather go and deal with poor Jacky in the back of Inala who has nothing but has 10 kids and wants to do something for his community. The community department wants to deal with that person. It does not want to come and deal with Sam, the chairperson of so-and-so organisation, because Sam has brains. Sam is also connected to an organisation. That is what some of the bureaucrats are doing at the moment, when they are setting those things up. They need to deal with some of the peak organisations in the regions, because the organisations are community driven.

**Mr Watson**—And who runs the organisation? The community.

**Commissioner Williams**—Yes.

**Mr Watson**—Each organisation has to go to an AGM once every year and each member of the committee stands down and then the community elect the people who are going to administer the program.

**Senator NETTLE**—So what role—

**Mr Watson**—You asked the question, Senator Nettle. My answer would be that the minimalist fall-back position from this point would be to keep the regional councils in place so that at least there is some mechanism there that our mob can go to. In our regional councils, particularly here in the Greater Brisbane area, there are people representing the key pockets of our community. In the Greater Brisbane area we have a unique community and it is quite diverse. Geographically, we are spread to all points of the compass. But the ATSIC process has been able to deliver a regional council that is representative of most of those key pockets of Indigenous people. I could not fault the model we have now for ATSIC governance in south-east Queensland. I think that we are now at a point where each one of those regional councils represents a key section of the community. So I believe, as I said, that the minimalist fall-back position would be to keep that regional council in place so that at least there is some mechanism by which our community can feed into the government mainstream our views and our needs. The government will hear what the community wants it to hear, not through an appointed arm that will feed into the system what it wants to hear.

**Commissioner Williams**—And they work off an estimates type of thing.

**Mr Watson**—With our regional council, each one of our mob live in our community. Once elected to regional council or the commission, they do not suddenly jump off to Surfers Paradise and live down there. Our mob live in the community and they know what is going on in the community, and that is critical.

**Commissioner Williams**—The hard thing is, too, that with the National Indigenous Council, south-east Queensland is the only area. We have one lad down the coast but we do not have a representative in Brisbane.

**Senator NETTLE**—There is no-one from your area on that.

**Commissioner Williams**—No. For the Greater Brisbane area or south-east Queensland.

**Mr Watson**—In closing, I make one final point: that this is a very artificial and contrived environment. I really think that if the committee is genuine about honouring its charter from the Australian parliament it should come down to Brisbane for at least one day and one night and come around the streets of Brisbane and see kids sniffing up petrol in King George Square, in front of city hall. This is what is going to happen once this bill goes through. We now have a population of about 250 kids on the street sniffing up or shooting up. Once this bill goes through and the infrastructure disappears, that will expand a thousandfold. So, on behalf of our community, Robbie and I extend that invitation to you mob to come down to Brisbane at some stage. I know you are very busy, you are very pressed for time, but come back at some stage and let us take you around our home, our place, and meet the people.

**Senator HEFFERNAN**—With respect, a lot of things in life depend on the dunghill you are born on.

**Mr Watson**—I would not regard my—

**Senator HEFFERNAN**—If you are a farmer and your old man owned a bit of shit country, for the rest of your life you are going to be farming shit country—with respect to my language.

**Senator CARR**—What are we talking about?

**Senator CROSSIN**—What is going on here?

**Senator CARR**—What are the parliamentary standards here? He swears better than I do.

**ACTING CHAIR**—Do not interrupt him. I am interested in this.

**Senator HEFFERNAN**—But they know what I am talking about. It depends where you are born. The question I want to ask is: do you really think that there is a disadvantage for Indigenous people in going to a mainstream school? There is a program in Sydney now where St Joseph's College, which is a GPS, have an allocation every year for Indigenous kids coming out of the bush.

**Commissioner Williams**—Scholarships.

**Senator HEFFERNAN**—Yes. Those kids will get a wonderful network for their lifetime. They will get wonderful opportunities. What is the best way that we, and all Australians, can offer those opportunities to the kids who are sniffing petrol in the streets here? Is it necessarily by going to an Indigenous school, or might they get better opportunities by going to a

mainstream school? It is not necessarily the case that those kids get the best opportunity in life by sticking with their own mob.

**Mr Watson**—Absolutely. That is why, for kids who are sniffing petrol in King George Square tonight, you would treat that sniffing and the act of self-destruction as being a symptom of a far deeper disturbance. You would go into the home situation, through the organisations that Robbie is involved with, and treat them at Murri Watch. This is how we look at a person. We look at the holistic question. For example, at Murri Watch we rescue people from watch-houses and prison cells, and we look at exactly why they are spending their days drinking metho in Musgrave Park. We try to attack the whole problem.

You are talking about schooling. My wife and I came through Mount Gravatt State High School back in the 1960s. That was a very poor working-class school, but both of us made it through to university. So you really do not need to reinvent the wheel. The means are there. As long as you can give your children a basic start, it does not matter which dunghill they are born on, to use your phrase. Most Aussie kids do well if they are given a basic home environment where there is decent income coming into the house, access to decent health care and access to decent services. The situation in remoter communities that you keep referring to is of Aboriginal traditional owners having to trade off their rights in land and culture in order to get a new shopping centre put in—and that is unacceptable.

**Senator HEFFERNAN**—Do you think it would be a possibility in the future for disadvantaged families, who are doing it bloody tough with no employment, to get a voucher or a system where they were given money that was actually spent on schooling, rather than on ice-creams or something on the way to school; money that was actually spent on getting an outcome?

**Mr Watson**—The first step in that process is to have an Aboriginal agency work with the family that is in that situation. You cannot do that from a 24-storey office full of white bureaucrats. If there was a problem with a family spending their education money on whatever, then you should have access to them. If you have concerns about them and if you have the best interests of that child at heart, then you would go to a community based Aboriginal agency and raise that matter with them.

**ACTING CHAIR**—We have to draw this to a close.

**Commissioner Williams**—Let me talk. First off, those ration cards like you are talking about—you did that type of thing back in the days of wars and all that kind of stuff. Our people do not need those ration cards. You can talk to Noel about that type of stuff when he comes down later on. All communities are totally different. In south-east Queensland and many other communities through Queensland, we deal with our people to overcome those issues. The thing about crime and all that stuff is a historical thing. What you see coming through in our kids now is the result of people being taken away from their families, colonisation and all that type of stuff. It goes through the blood of their bodies, the same as it does through everybody else in our black community; it is just that they handle it in a different way. And the unfortunate thing is that we have to deal with that. We cannot expect you to come up with a ration card, because that will not work with our people. If anything, that would be an easy way out.

**Senator HEFFERNAN**—I agree that it is about what goes on at home. A lot of those kids who are sniffing petrol, wherever it is they are sniffing the petrol, probably do not like going home because God knows what goes on at home.

**Mr Watson**—We take them home, but there is nothing there for them. That is why they are on the street.

**Commissioner Williams**—And the door has been slammed in your face.

**Senator HEFFERNAN**—They probably get abused and God knows what.

**Mr Watson**—We have been abused by adults in the house. Thank you, senators. When I extended that invitation—

**ACTING CHAIR**—Could I ask one further question before we close. How many people voted when you were elected for the first term, Commissioner Williams? What was the turnout that voted, overall, in your election in south-east Queensland?

**Commissioner Williams**—I think it was about 5,000 or 6,000.

**Mr Watson**—That is across all the booths.

**ACTING CHAIR**—What do you estimate is the population of Indigenous people, not necessarily voters? What is the criteria for voting—18 and over?

**Commissioner Williams**—Yes, and to be enrolled—

**Mr Watson**—by the Australian Electoral Commission.

**ACTING CHAIR**—So 45,000 is everybody—that is, women and children included.

**Commissioner Williams**—I am talking about everybody.

**Senator CARR**—What percentage of people who voted in ATSIC are entitled to vote in Australian elections in general?

**Commissioner Williams**—They all are.

**Senator CARR**—How many of those voted in the last ATSIC elections? That is the question.

**Commissioner Williams**—I would say only about 10 per cent of those people.

**Mr Watson**—Can I point out that Brisbane is a very unique community. We have direct links to places like Cherbourg in the Brisbane Valley, which is three hours away, and with other communities around south-east Queensland. Our mob are very mobile. They do not live in just one place.

**Senator HEFFERNAN**—But they have to be on the roll somewhere.

**Mr Watson**—Yes, they have to be.

**Commissioner Williams**—Don't forget you have universities and major hospitals in this area as well as prisons.

**Senator CARR**—But the government says that because there is such a low participation rate the elections were not legitimate. How do you respond to that charge?

**ACTING CHAIR**—I am asking the questions, thanks. You can come to that and follow up and mop up afterwards. Is 10 per cent very representative of what you understand to be the turnout across Australia? It is higher, isn't it, in south-east Queensland?

**Mr Watson**—We believe that the 10 per cent achievement is significant and we believe we could build on that if given another opportunity—but obviously we will not be able to now. But that figure is the result of a whole range of reasons. The major problem with our mob in Brisbane is the appalling homelessness. People spend a lot of time travelling between places, including for work. A lot of our people are seasonal workers, so they shift out to the Brisbane valley for the tomatoes, and the potato and onion crops et cetera. So our mob move around a lot because there is just no work here. We thought a 10 per cent turnout, while it is not the ideal situation, is still a significant achievement. We believe that given another term we would have increased that to 15 to 20 per cent.

**ACTING CHAIR**—What do you think the mechanisms are, what devices are available to you, to increase voter participation into the future? Let us say there was an organisation into the future—and I am not suggesting that government policy would deliver this to you, but let us hypothesise into the future: how do we get more people to play a more active role in electing representatives?

**Mr Watson**—You would fund ATSIC to employ more people to spend more time out in the community, because at the moment our commissioners in our regional councils do not have the resources to do that.

**Commissioner Williams**—I do not have any resources.

**Mr Watson**—No, that is the situation now. But each one of you mob and each person in the House of Representatives would have a certain budget for your electorates; we would argue that our commissioners and our regional councillors should have similar budgets so we can get out to our communities, get out to our people. That would probably be the first step. With the reconciliation process, that is what we did, as the commissioner pointed out before. You build it from the ground up. We have built the reconciliation process from the ground up.

**ACTING CHAIR**—Wasn't there a substantial amount of money spent by ATSIC over a long period of time to get people to participate? I am talking 10 to 15 years. Wasn't there lots of money spent on doing exactly what you said, and you are still getting only 10 per cent?

**Commissioner Williams**—No, it was put through to the Electoral Commission to do it, and the Electoral Commission did do it with the help of ATSIC. The Electoral Commission ran the election with the help of ATSIC officers.

**ACTING CHAIR**—The ATSIC officers were out there trying to get people to vote, weren't they? They were on the ground talking to community leaders and trying to get people to participate, and we have had this huge aversion to participation.

**Commissioner Williams**—Don't forget it is not compulsory. That is the difference.

**ACTING CHAIR**—Do you think it should be compulsory?

**Commissioner Williams**—Maybe that is the way if a benefit and a service is needed. Don't forget, as Australian citizens we are entitled to that service, and if we are entitled to have an organisation like ATSIC—a clean, healthy and accountable one—then we are accountable to vote for it, too.

**Senator CARR**—I am interested in this argument about the illegitimacy of the electoral system. How do you respond to the charge that the way you deal with low turnout is to cancel the elections, which is what the government has done?

**Mr Watson**—We would argue that the turnout is not low and also point out that there are also significant cultural considerations that go into that voter turnout. In family groups and clan groups there may only be a certain number of senior people who are given the right to express a vote. Our mob do not vote in the way that whitefellas do in state and federal elections.

**Senator CARR**—I am committed on behalf of the Labor Party to a restoration of an elected ATSIC type body—

**Mr Watson**—Thank you.

**Senator CARR**—a representative Indigenous body. The problem is going to arise: what is the form of election that actually produces representatives, genuine representatives, that have real authority? You are saying that the old electoral system is not in itself adequate. What form of electoral system or what variations would you think would be appropriate?

**Commissioner Williams**—If you do not vote—like the senator was talking about the dunghills and all that—once the gates have shut and the horse has bolted, it is no good whingeing about the person you put in. That is the big thing. When the next three years are up, that is when get rid of that person.

**Mr Watson**—It is a community education program, essentially, because our mob still have a great deal of suspicion about going to polling booths and being visible for a whole range of reasons. So it comes down to our mob running community education programs.

**Senator CARR**—Are there other forms of electoral systems that might produce a better result? You mentioned, for instance, clan group selection. I know that in other Indigenous



communities internationally there are other forms of electoral systems. Do you think there are models that we should be looking at that are other than the AEC style of election?

**Commissioner Williams**—We were broken up into wards. We were broken up into south, central and north. It was probably one of the worst things that happened because, like Sam was saying, all of our mob move around. Straight away there is a problem because you do not always live in the same area where one of your mobs lives. If we are living in the south ward my mob might live in the north, but I am not allowed to vote for the mob in the north. I have to vote in the ward where I live, but we are a regional type of clan.

**Senator CARR**—I understand it is a complex question. If it is possible and you have the time to provide further advice on what the nature is on any method of a selection.

**Mr Watson**—I have just been looking at the Iraq experience. Those people were able to make that quantum leap to the point where so many women turned out to vote, and there are enormous cultural considerations there.

**Commissioner Williams**—The women turned out to vote.

**Mr Watson**—Yes. That model worked there. I really believe that the model we have we can work with. It is just a question of investing time and resources at the coalface to get out there and talk to our mob. For example, one of smallest booths we had in the last election was South Brisbane, at state high. There are about 1,500 people in that community and they are amongst the area of highest need in terms of legal service support and medical service support. We have to translate that to our people and say, 'Look, if you do not turn up on election day and put your regional council voice in, then you are not going to have any voice.' It is as simple as that.

You say that the figures are not significant or questionable, but we say in the last 10 to 14 years we are trying to overcome two centuries of problems. We should at least be given a little bit of a comfort zone and, like I said, the funds and resources to get down to the coalface and convince our people that yes, there is value in actually voting—real value—in terms of medical resources, legal resources and housing resources.

**ACTING CHAIR**—Thank you for appearing before the committee and for your evidence.

**Proceedings suspended from 11.19 a.m. to 11.35 a.m.**

**ROBERTSON, Associate Professor Boni, Director, Gumurrii Centre, Griffith University**

**ACTING CHAIR**—We resume this public hearing of the Senate Select Committee on the administration of Indigenous affairs. I welcome Associate Professor Boni Robertson, Director of the Gumurrii Centre at Griffith University. The committee prefers all evidence to be given in public but, should you at any time wish to give your evidence or any part of your evidence or answers to specific questions in camera, you can ask the committee to do this and we will consider your request. I would point out, however, that the evidence taken in camera may subsequently be made public by order of the Senate. Is it your intention to ask for us to hear you in camera?

**Prof. Robertson**—If you would not mind, please.

**ACTING CHAIR**—Fine. Let me just tell you a little more about that. I must advise that it is not the intention of the committee to publish or present to the parliament all or part of the evidence you are about to give. However, you need to know that it is within the power of the committee to do so and that the parliament has the authority to order the production and publication of undisclosed evidence. You should also note that an individual senator or member may refer to in camera evidence in a dissenting report to the extent necessary to support the reasoning of the dissent. However, we would try to seek your view on any such proposed disclosure. If I can just elaborate on that: if, at the end of the day, when the *Hansard* is presented to you, you say to yourself, ‘This is really nothing that I really have any reluctance to publish,’ get in touch with the committee secretary, Mr Curtis, and say, ‘I’m happy for you to publish a copy of my evidence leaving out these paragraphs,’ or, ‘I’d rather you didn’t publish any of it,’ or whatever. It is entirely up to you in the light of the caveats that I have given you about the powers of the committee and the Senate.

**Prof. Robertson**—I understand that, thank you.

*Evidence was then taken in camera but later resumed in public—*

[12.42 p.m.]

**MANTON, Mr Lance, Private capacity**

**CHAIR**—We welcome you, Mr Manton. I believe that you are giving evidence on your own behalf rather than as a representative of the whole group. Is that accurate?

**Mr Manton**—At this point in time, yes.

**CHAIR**—You understand about your right to have in camera evidence if you choose to. But do you also understand the limitations that places on publication? Are you fully across all that?

**Mr Manton**—Yes.

**CHAIR**—There is an opportunity now for you to make an opening statement generally about those things you would like to discuss and then there will be questions from senators. Is that okay?

**Mr Manton**—That is okay.

**CHAIR**—Thank you, Mr Manton. You are on.

**Mr Manton**—I work with the Kurrachee Aboriginal cooperative in Coraki in northern New South Wales. That is a CDEP granting organisation. Firstly, I would like to say that this submission was sent out in August last year to members of the Many Rivers Regional Forum. I do not think they had enough time to respond to some of the stuff that was contained in the document and I am hesitant to speak about some of the things that they might want to on behalf of their communities. That was one of the things. So I just want to speak on some of the things that I wrote in this document and on how I see things. I think they strongly oppose the abolishment of our peak body and they fully support a national and a regional voice to advocate on behalf of Aboriginal people in the region.

The ICCs are funded currently through DEWR. The way I look at it is that originally the CDEPs were set up and operated in a way that was consistent with the way that Aboriginal people conduct their business. That is in line with their values and their practices. The focus over the years has changed from that original concept of CDEPs—how they were set up.

Just to point out a couple of things: within the Many Rivers region we have about 1,770 work participants with the 13 CDEP organisations in the region, and I think about 1,400 of those people are hosted out to employers. Over the last nine or 12 months, about 122 full-time positions have been created through those CDEPs. To us, those are real outcomes, and I think that is what people are looking for—outcomes in relation to employment. To us, that is a real plus. We have achieved that; we have done that. When the regional council was up and running, it was in conjunction or in consultation with the CDEPs within the region, but it was the CDEPs themselves that achieved all of those outcomes for the forum. I see that ICCs in some areas are now run by non-Indigenous people.

I also wanted to say that mainstream services were not doing the job that they were supposed to do in relation to all the services provided to Aboriginal communities. I think ATSIC, which has now been abolished, was getting a lot of the blame for about 15 per cent of the services that were going into communities. When I started to write this document—this is coming from my auntie—my focus was on the delivery of services to Aboriginal people, whether they were appropriate or acceptable to the needs of Aboriginal people in each of those communities.

I worked for the Department of Ageing, Disability and Home Care for about 13 years. We were providing personal care services and all the other ageing, disability and home care services to a great number of people throughout the state. When I focused on this document—and the services that are going out into the communities are on a needs basis—I think I was getting a little bit confused about the services that go out to the aged, and that personal care. As they get older, a lot more care is needed through the services. In saying that, I do not know how well employment, health and education services have done over the years. From what I have gathered, the types of services that are administered by mainstream agencies have not done quite so well, whereas the CDEPs are Aboriginal run and do achieve a degree of autonomy, I think, in servicing a lot of people within the region.

**CHAIR**—Mr Manton, maybe we could actually make it flow if some of the senators had questions which picked up on some of your issues. Would that be appropriate?

**Mr Manton**—Yes, that would be okay.

**Senator CROSSIN**—Mr Manton, how many CDEP recipients are in the 13 organisations?

**Mr Manton**—1,770.

**Senator CROSSIN**—Have you noticed a change with the CDEP going to DEWR? What have been the significant changes?

**Mr Manton**—I think that non-Indigenous, white middle-class values have been imposed upon some of the CDEP organisations now. That is not the way Aboriginal people conduct their business. It is totally out of line.

**Senator CROSSIN**—There is talk that your CDEP organisations will become Job Network providers. Have you had any discussions or do you know anything about that move?

**Mr Manton**—No, I do not—only from what I have read in a paper that was released by the minister for industrial relations.

**Senator CROSSIN**—Not employment?

**Mr Manton**—Employment, yes. Kevin Andrews.

**Senator CROSSIN**—Has there been a paper from government about the future of CDEPs?

**Mr Manton**—That paper was the only thing I had seen saying that some of them may become Job Network providers, yes.

**Senator CROSSIN**—I want to ask you about the CDEP. First of all, let me ask you what sorts of jobs are the CDEP recipients undertaking? What kind of work do they do?

**Mr Manton**—We have work participants in health, in education in schools, and with the police.

**Senator CROSSIN**—So these are people who might be school assistants, police aids or health workers?

**Mr Manton**—Yes. I would also like to point out that we arrange these host employers that work participants go to. What I would like to see from those guys is a lot more commitment in relation to full-time employment and additional training whilst people are employed within that organisation. In the education department, in most of the schools on the North Coast, we have people who work for two days. These people only work there for two days a week: why should the schools then want to make full-time positions out of those when they can do it for two days a week? It is not fair; there is no future there for those people. There is no job security there for them.

**Senator CROSSIN**—Out of your 1,700 participants how many would move into full-time employment each year?

**Mr Manton**—Within 12 months, as I said, we created full-time positions for about 122 Aboriginal people. Currently there are 1,450 employed with host employers throughout the Many Rivers region.

**Senator CROSSIN**—What is the federal government doing about creating jobs for those people? I am from the Northern Territory so I understand CDEP very well. What I do not understand is why people are employed as school assistants or health workers on CDEP rather than getting a proper wage.

**Mr Manton**—If the government wanted to put that infrastructure in place to make those full-time positions, it would be good for us.

**Senator CROSSIN**—What is happening about creating employment or transferring participants from CDEP into full-time jobs?

**Mr Manton**—There are labour market opportunities for people to be employed. In our region, we have people from Wyong in the south up to Tweed Heads in the north. Places like Tabulam, Woodenbong and Mulli Mulli are more remote communities. There are little or no opportunities for people in those communities to seek full-time employment.

**Senator CROSSIN**—But they must be doing jobs, like a health worker or a school assistant, that could be converted to an employment position.

**Mr Manton**—They could be if the schools wanted to make that commitment to employ those people full-time, because we certainly put the training in place for those work participants.

**Senator CROSSIN**—Do you think more can be done on behalf of the federal government to actually provide the funds to enable CDEP participants to move into positions?

**Mr Manton**—Each one of the work participants gets an entitlement of \$3,000. That is the on-cost funding that runs the operations of the CDEP organisations. In the last four years, since I have been with them, I think there has been a \$500 increase in participants' entitlements. They have increased from \$2,500 to \$3,000 per participant.

The administration costs to run those places are extremely high and they go up each year. All of the wages for the administration staff come out of that on-cost funding to run those organisations. With the little bit of money we have left we have to pay our administration. We have partnerships with educational institutions like TAFE and ACE and all of those other guys and they provide a lot of free training to us for our work participants. But there are skills and training that people need and we need to put that in place for them.

**Senator CROSSIN**—Have you found support and services from DEWR have increased or decreased since this move to mainstreaming?

**Mr Manton**—I do not think they have been really supportive at all to the organisation for which I work.

**Senator CROSSIN**—Did ATSIC regional offices understand CDEP better?

**Mr Manton**—The ICCs, the Indigenous coordination centres, yes.

**Senator CROSSIN**—Did ATSIC regional offices understand CDEP better?

**Mr Manton**—They understood CDEP better, yes.

**Senator CROSSIN**—Do you believe there is time to totally review the aims and objectives of CDEP? Do you have any thoughts on how CDEP can be improved?

**Mr Manton**—There are two lots of wages that come into CDEP. There are the operational costs—and I would like to see an increase in on-cost funding, for a start—and there are the CDEP wages, which are paid to the CDEP participants. If the administration wages could come out of that rather than the on-cost funding then we would have a lot more dollars left in the kitty to do the work that we need to do.

**Senator CROSSIN**—That would mean that a participant would get less than \$420 a fortnight, though?

**Mr Manton**—The work participant?

**Senator CROSSIN**—Yes.

**Mr Manton**—They get \$201 a week for the two days, so that is \$404.

**Senator CROSSIN**—You are suggesting that the on-costs should come out of that money?

**Mr Manton**—No, those are the wages paid to CDEP participants. That is their \$201 a week. I would rather see the costs for the administration start to come out of there—that is, as additional money allocated through there—than out of the on-cost funding.

**CHAIR**—With additional funding to cover that?

**Mr Manton**—Yes. It should not be out of the on-costs but out of the CDEP wages component.

**Senator CROSSIN**—Is that the answer, though? Isn't the answer to actually try and stimulate the labour market?

**Mr Manton**—There are a lot of things. When you go out into these Aboriginal communities—and I have been in them for most of my life—even today a whole lot of people out there in those communities cannot read and write. Most of the people who run the CDEP organisations now have had little or no training. It is obvious that changes come along—for example, management changes. People have to be kept up-to-date on all of the changes that come about in order to run these organisations more efficiently and effectively. So I see a whole lot of training going into the administration staff, because they certainly do need it.

**Senator CROSSIN**—Is that happening?

**Mr Manton**—It is up to the individual if they want it or not. We cannot force it on them. But I would like to see a lot of them undertake further training in administration or management to enhance their skill levels to run these organisations more efficiently.

**Senator SCULLION**—I am very interested in one example of what has changed from when ATSIC and the regional council controlled some of the delivery of programs to now, where the ICCs, if you like, are the shopfront and the mainstream departments are delivering them. You said that you thought that the ATSIC regional office and the officers obviously associated with them—and I am assuming they were Indigenous people who have a fair bit of understanding of the network—probably did it better. What happened to those men and women? In your own region you would probably know them. The reason for my question is that my understanding was that staff would follow task. Somebody was responsible for CDEP in ATSIC. When it was transferred, the same people would still be responsible for the delivery of those programs, but within the department. I just want to clarify whether or not that has been happening. If it has not been happening then I think it is important that the committee understands that.

**Mr Manton**—An example is the Coffs Harbour office. All the staff from ATSIC are still there. The way that I see it, they wanted to make the changes but they had to do it through the regional council. The regional council is no longer in power there now so, under DEWR, they can see the changes that need to be made to the CDEP organisations and they have gone about making those changes.

They are not consistent with the way Aboriginal people do business. I think they have imposed their values and their middle-class management practices on us. We do not fully understand the

processes and procedures. It is a whole new thing for us. We have achieved outcomes, and what they are doing now is not going to make all that much difference to the outcomes. We have been doing our business and, as I said, we have created full-time jobs for those people within that region in that 12-month time frame, and we cannot do much better than that.

**Senator SCULLION**—I have to say, Mr Manton, I think—and I come from the Northern Territory—we could be quite envious of that many jobs being created in those areas. I have a supplementary question. I am just trying to get a clear understanding of what you have told me. Maybe you can clarify this for me: the people who were responsible are now under DEWR and are now operating under a different management environment, if you like. When you are talking about values and the way you do business, you are saying that you are now operating in a different area where different processes are now being imposed.

**Mr Manton**—Yes.

**Senator SCULLION**—Two things: firstly, you were going towards people not having a good enough understanding of those processes. That was part of it.

**Mr Manton**—Yes.

**Senator SCULLION**—Secondly, do you think that can be resolved in terms of education and people understanding the system, or is it simply a completely different way that you do business?

**Mr Manton**—It is a different way that we do business. We have to accept change but not sudden change. I think that if there is change and it is occurring all over the place, those people in that office should be there to help us through the change—not try to impose on us things that we do not understand—and not suddenly but a little bit at a time. That is the way that I see it.

**Senator SCULLION**—I just want to get this clear in my mind. It would be very important to identify, if you had to put extra resources into this process to make it work, it would be at the level that assisted people in understanding the new management processes and that sort of educational process.

**Mr Manton**—Yes.

**Senator HEFFERNAN**—Did you say that there are 1,700 people in the CDEP program?

**Mr Manton**—There are 1,770.

**Senator HEFFERNAN**—How many of them can read and write?

**Mr Manton**—I would not be able to give you a figure on that.

**Senator HEFFERNAN**—Is there a reasonable proportion that cannot?

**Mr Manton**—Yes, a reasonable proportion.



**Senator HEFFERNAN**—There is a long way to go. If I were a kid at Mungindi, and I got into a CDEP program for building—

**Mr Manton**—Yes.

**Senator HEFFERNAN**—You may even put yourself in this position. Is the building trade in the CDEP program? Do they teach kids to build?

**Mr Manton**—They do, yes.

**Senator HEFFERNAN**—Wouldn't it be a reasonable prospect if you are in a program like that to want to get out, instead of just building homes in your own community, and build homes in the wider community, get a quid and get your kids off to school? Does the system allow that to happen now? Do a lot of people—say a learner in a CDEP program for building or repairing houses or something—transfer out to work for Multiplex, a local builder or someone else?

**Mr Manton**—When they put houses at Cabarita, the Aboriginal community at Forster, in 1985 and 1986, and also at Cabbage Tree Island and a lot of other communities up and down the coast, it was done under a supervisor and a lot of Aboriginal people were employed. Through that employment they learned various skills, such as carpentry and all that sort of stuff. Some of those guys went on to build houses and have their own businesses. This was on Cabbage Tree Island, too—they have their own businesses there in relation to building. That happens in the communities on the east coast, but for people from the inner parts—Moree and places like that—it is out of country for those sorts of people, and they will not leave from out there to further their own education.

**Senator HEFFERNAN**—But there are probably some who would like to.

**Mr Manton**—I would think there are some who would like to get out of there. I agree with you on that.

**Senator HEFFERNAN**—Do you think there is enough thought given to the program to get them out? I can only think—and pardon me for diverting for a second—of one of the biggest developers in Australia today. I will not name him, because I do not want to embarrass him. He was in a small country town in New South Wales with his old man. His old man was a local builder. It was a very small town, and the old man said to him, 'Son, there's not enough room for both of us in town.' After he did his apprenticeship, the old man said, 'You'd better your backside down to Sydney.' So he chucked all his gear in the back of his ute and went to Sydney, where he got a job on a building site building a house. Eventually, someone said to him, 'Why don't you build one yourself?' So he built one, and someone said to him, 'If you're going to build one, why don't you build 10?' And he is now one of the biggest developers in Australia. Surely we ought to give people a chance. If there is a kid at Mungindi who has learned the trade, surely there ought to be a transitional program to get him into the city. Do we have such programs, or do they have to find their own way?

**Mr Manton**—I would think they would have to find their own way. I do not think there is much assistance along those lines. There are a whole lot of things that hinder development in Aboriginal communities. There are a whole lot of things that hinder peoples' progress in getting

on with their lives. It should be recognised that a whole lot of injustices were inflicted on Aboriginal people in the past. That has to be recognised now and acknowledged, because they are the cause of what is happening today. Why not treat the cause rather than the symptoms?

**Senator HEFFERNAN**—I think there is a lot of compassion and goodwill in the wider community. A lot of the whitefella communities simply did not know and were not educated about what happened to Indigenous people in years gone by. Surely there is more goodwill now than there was, though.

**Mr Manton**—There is evidence to support the idea that there is more goodwill in those communities. The relationship is a lot better. But the disadvantage is still there in all of those communities. Racism is still evident in all the places where you go to get a job and in the schools.

**CHAIR**—Thank you. I know there were some concerns about the submission that your association has put in. If, as an association, you would like to put a supplementary submission to us, please do so. We have the original one, and if there is something you would like to add or subtract just let us know.

**Mr Manton**—I think the members of the regional forum will get together over the next week or so, go over this document and then resubmit it.

**CHAIR**—We would be happy to hear from you. Thank you for your time.

**Mr Manton**—Thank you.

**Proceedings suspended from 1.09 p.m. to 1.46 p.m.**

**GALVIN, Mr David John, General Manager, Indigenous Land Corporation**

**CHAIR**—Welcome. The committee prefers all evidence to be given in public but should you at any time wish to give your evidence, part of your evidence or answers to specific questions in camera, you can ask the committee to do this and we will consider your request. However, I point out that evidence taken in camera may subsequently be made public by order of the Senate. I invite you to make a short opening statement and then answer questions from senators.

**Mr Galvin**—I will not make an opening statement. I think our submission summarises things.

**Senator CROSSIN**—I want to talk about the practical changes to the ILC proposed by the current bill. Is it correct that ATSIC properties—for example, Yeperenye Shopping Centre in Alice Springs—will be transferred to the ILC for care and maintenance?

**Mr Galvin**—Yeperenye Shopping Centre is not scheduled to come to the Indigenous Land Corporation. Primarily, the properties that have been identified to come to the Indigenous Land Corporation are land holdings that ATSIC still holds on behalf of Indigenous people, and some of them go right back to 1974. Most of those land holdings are small, consisting of one or two acres. I think there are one, two or three bigger rural properties in there. The biggest property is Marrapa Station, which is on the cape. It is a significant property of many tens of thousands of hectares. However, they are generally small properties that have been gifted in the past by institutions to the Department of Aboriginal Affairs, ATSIC or ADC. None are really substantial income-earning properties such as Yeperenye.

**Senator CROSSIN**—Do you know where that is planned to go in the scheme of things? Is it to IBA?

**Mr Galvin**—I think it is to go to Indigenous Business Australia.

**Senator CROSSIN**—Will housing fund loans come to you?

**Mr Galvin**—No. They will go to IBA as well.

**Senator CROSSIN**—What practical changes have you noticed in the transition to a post-ATSIC period?

**Mr Galvin**—We have not noticed anything yet, because it has not occurred.

**Senator CROSSIN**—It seems to be happening in other places and agencies.

**Mr Galvin**—It really does not affect us and will not until the bill is passed in whatever form it is passed in. We will see those 19 properties come to us. I do not think that will bring too much of a burden upon us. We have already purchased 172 properties and we have 108 under a remediation strategy which looks at properties, their condition, the people who are there and the aspirations for those properties and provides funds and property management plans. We will just incorporate them into our normal regime.

**Senator CROSSIN**—Will that see you having to put additional staff on?

**Mr Galvin**—No, I do not think so—not for just 19 properties. Given the size of those properties, we should be able to accommodate them comfortably. With the bigger properties, I think we will incorporate Marrapa Station, for instance, into our business functions. That is one of the best cattle properties on the **cape**, and it has not been running for 20 years.

**Senator CROSSIN**—But that was actually a gift to ATSIC, so are you in any position to on sell that?

**Mr Galvin**—We would not intend to on sell something like that. We would intend to look at it and, if it is feasible, build it up into a good business—

**Senator CROSSIN**—I see.

**Mr Galvin**—generate employment and look at divestment opportunities down the track.

**Senator HEFFERNAN**—You say there are small properties. A small property of one acre at North Head in Sydney would be worth more than that place on the cape. Are there small properties that are highly valuable?

**Mr Galvin**—From the glance that I have had at it, no. There are one or two properties in Redfern that are probably the most urban type of properties, one or two properties in Alice Springs and a couple of properties out in Broome. The property in Redfern, which is at Cope Street, is next to a property that we purchased and were doing up for an Indigenous aged care centre, so there could be a possibility of incorporating that property into the centre.

**Senator CARR**—Have there been any discussions with anyone about any sale of those 19 properties to fund, for instance, a legal challenge?

**Mr Galvin**—Absolutely not.

**Senator CARR**—So you have no knowledge of any discussions involving the possible removal of those properties from ATSIC's list?

**Mr Galvin**—No; absolutely not. We have been told, 'Here is a list of properties that will be coming to you.' We will wait til those properties come to us and we will then decide.

**Senator CARR**—Have you had any legal advice on any possible sale of any of those properties?

**Mr Galvin**—No; absolutely not. We have on occasions sold one or two properties that we had purchased, for such reasons as groups not taking up those properties et cetera. But that goes through a rigorous—

**Senator CARR**—But you can assure the committee that there have been no discussions with you and that you are unaware of any discussions for the disposal of any of these properties?

**Mr Galvin**—Absolutely.

**Senator CROSSIN**—Is there a suggestion that there will be a reduction in the number of Indigenous members of the board?

**Mr Galvin**—No. Once the bill is passed and ATSIC is no longer in existence the two ATSIC representatives cease to be members of the board. But there will still have to be five Indigenous members of the board and two other members who have certain skills and who can be Indigenous or not. But the five—

**Senator CROSSIN**—So there is no plan to automatically extend the number of Indigenous people on the board to compensate for the lack of Indigenous ATSIC representatives?

**Mr Galvin**—It would be up to the minister to appoint two other Indigenous members, so there is no reduction in the number of Indigenous members. That could have a—

**Senator CROSSIN**—But, technically, if the two current ATSIC nominees are replaced by two non-Indigenous nominees—

**Mr Galvin**—No, they cannot be.

**Senator CROSSIN**—They will not be?

**Mr Galvin**—There are seven members of the board.

**Senator CROSSIN**—Yes.

**Mr Galvin**—Five have to be Indigenous.

**Senator CROSSIN**—Yes.

**Mr Galvin**—Two have to have particular skills—they can be Indigenous or non-Indigenous.

**Senator CROSSIN**—I see. The two ATSIC nominees are currently part of the five—is that correct?

**Mr Galvin**—Yes, they are part of the five.

**Senator CROSSIN**—Right. I had misunderstood you.

**Senator JOHNSTON**—Thank you for your submission, Mr Galvin. Could you provide to the committee a schedule of the 19 properties? I am going to ask you about them individually in a moment. I am not sure that you have this information but, firstly, I think the committee would be interested to see the address of the property, its size, its zoning or business output—obviously pastoral, residential or commercial—the date it was purchased and any indication of the price at the time of purchase; in other words, a bit of a historical background to those 19 properties. Secondly, in your annual report could you—and this is entirely up to you but I would suggest it

is a good idea—separate initially those properties so that anybody who is looking at your inventory has a bit of an idea of what has come in and not just this committee but future committees can keep track of where those properties have gone and what they have done? Apart from that, what can you tell us about each of the individual properties? Do you have any information as to what you are getting and what is required in terms of ongoing management?

**Mr Galvin**—We have only got a list. That was through ATSSIS, as it was then. That is only an indicative list because some of those properties could be divested between now and when the bill is passed and ATSSIC is no more. We have not been officially told, ‘These are the properties that are coming over to you.’ We have been given an indicative list. I do not have that list with me now but I can provide that to the committee. It is no problem.

**Senator JOHNSTON**—I would be much obliged if you would.

**Mr Galvin**—That list could change at a certain point in time but we have no problems providing it. Your suggestion of providing it through the annual report, which would be next year’s annual report, is a good suggestion. I think the board would probably take it up. I think we would be doing the same with the Regional Land Fund, which might be coming over to us. We would also want to account for that in a separate manner.

**Senator JOHNSTON**—How much is coming across?

**Mr Galvin**—I have some up-to-date figures. From 30 June 2004, there was \$9,330,714. As at 31 December, there is \$7,814,817.

**Senator JOHNSTON**—Are you aware of what happened in the interim to the approximately \$1.8 million?

**Mr Galvin**—The regional councils have the discretion to still spend that and prioritise that. We will not know how much funds we will be receiving until 30 June this year.

**Senator JOHNSTON**—Let us say some land is purchased with those funds. Have you anticipated what is going to happen if the regional councils have expended some money? Are you going to then take over responsibility for the asset that has been acquired?

**Mr Galvin**—I am not 100 per cent certain on how that is going to occur. Regional councils themselves were not usually the owners of the properties. The funds were distributed through grants to various organisations for the purchase of properties. If that has occurred we will not be taking over. But the regional councils themselves were not the property holders, as I understand.

**Senator SCULLION**—Just to touch on some supplementaries from my colleague Senator Carr: as I understand it from a number of estimates hearings and other forums in which I have talked to you about the work you do at the ILC, you basically have a process where land comes to you because you have actively acquired it. You have said, ‘That’s a piece of land that pretty much meets our obligations because it has some particular relationships with the people there.’ It has obviously some benefits because of the nature of the property and those sorts of things. The ideal process would be that at the end when you have acquired it you vest it back to new property owners with sufficient resources and training and all those things to move on with it.

**Mr Galvin**—Most of those purchases are under application. So people are applying to us on 99 per cent of the purchases.

**Senator SCULLION**—But it is targeted. There is a whole range of things.

**Mr Galvin**—Yes.

**Senator SCULLION**—The 19-odd properties you are about to get in your lap may or may not necessarily meet any of those requirements. They are not applications; they are just stuff. They have come from a variety of places over time. You would not know.

**Mr Galvin**—Yes.

**Senator SCULLION**—Will you be applying the normal rationale that you would to any other property? I would have thought that in the current process you would be saying, ‘Let’s have a look at property A. What do we do with this property? Does it have some value to the community? Do we need to do an anthropological check about the sort of community use for it?’ So, at the end of a period of time, you will work with a property. You will not be only an owner or a manager of a property. You will take this through the ILC process, eventually with the intention of vesting it back with some other community. If that is the case, I think the sort of assurance that we were looking for was that, effectively, the benefits of properties that have been vested in Indigenous trust in a generic sense over years and years would remain with them. I think people would be reasonably nervous about saying that if you dispose of them the money just ends up in consolidated revenue because it is not really within the ILC’s bailiwick to look after it.

Do you think you have the capacity within the process to say that, because these have come here specially, these are part of a different process? When the evaluation process takes place, what about those properties that fall off the table because they do not meet the necessary criteria of being of wider benefit to a particular Indigenous community or providing employment benefits? Will the board be looking at making some special adjustment to the process to deal specifically with these properties, to effectively meet the requirements of my good colleague the senator at the other end of the table and, potentially, the wider community, when they start thinking and talking about those sorts of issues?

**Mr Galvin**—I would suggest that, once we get those properties, we will go through our normal processes. We will identify where those properties were purchased and for what reasons. We will have that all looked into thoroughly. Some of them were gifted properties, I understand, never to be taken out of Indigenous hands. I think that through those processes we will identify the interested groups—traditional owner groups and historical groups et cetera. I would say that we would not have to change our processes. In the end, what we might bring to it is a more proactive use or development of those lands—whatever the people who are interested in them wish to do. I think a lot of them have been caught up in arguments, conflicts et cetera. I just think we will go through our processes. Those processes, at the start, are only for people who derive cultural, social, economic or environment benefits from the properties. So that would be what was on the ILC’s agenda: to derive those benefits for the people whom the land was purchased for. I would say that at the end of that process those properties will be either still in the ILC’s hands or vested in Indigenous corporations.

**Senator SCULLION**—I have one last question. We had an oral submission from witnesses earlier today who were reasonably critical of the ILC's performance in terms of their perception of the sorts of investments that had been made in urban areas rather than rural areas—particularly in south-east Queensland. Could you make a comment on that or perhaps take it on notice? Could you provide the committee with a broadsheet showing roughly how many properties have been purchased in urban and rural Australia and what you are doing about that? Obviously, the criticism was based on the fact that the ILC was supposed to deliver for those members of the Indigenous community who were not land based or who did not have rich land assets. Could you make a comment on that?

**Mr Galvin**—Some members of the committee will be aware that, when the ILC was first established, its criteria for the purchase of land were that the land be of cultural significance and be divested to traditional owners. Because of this, it followed that most of that land was purchased in rural and remote areas of Australia. It had cultural significance and was divested to traditional owners, and there were no other real program criteria. What the current board of the ILC did in late 2002 was to change the program guidelines to allow four program streams for land to be purchased—that is, for social, cultural, environmental and economic reasons. What that has done is swing the pendulum back to where we can now consider purchasing land in urban areas. For instance, last year we purchased our first block of land at Beenleigh, which is on the outskirts of urban Brisbane. I may be corrected here, but I think of our last 10 purchases approximately eight were in urban centres—in Alice Springs; Laverton; Kerang, in Victoria; and Sydney. That perception is a historical perception. It has changed with the development of our new program stream.

**Senator CARR**—What is your revenue source to buy these properties?

**Mr Galvin**—It is through the land fund.

**Senator CARR**—How much do you have available for the purchase of properties?

**Mr Galvin**—The land fund is \$1.4 billion. We will get an income from that of about \$60 million this year.

**Senator CARR**—Is that what you budget on for acquisition purposes?

**Mr Galvin**—And land management, which is a substantial part of our remit. In fact, the land management expenditure has been escalating because now we are looking at Indigenous held land that needs what we call our remediation strategy. Back in 2000-01 we looked into 156 properties that we had purchased, and found that probably 85 per cent of them were not generating the benefits that people thought they were going to. Primarily, the reason for that was that they were purchased without a great deal of scrutiny or effort. It was more that land equalled benefit.

We have developed a remediation program where we go back to those properties and the land-holders. We have got about 108 of those 152 properties in our remediation program, where we are developing property management plans. We are fixing up infrastructure. It is a 'we help you and you help yourself' program. We provide the fencing material; they put up the fencing et cetera. We are going back to the basics there. There is Indigenous held land across Australia that



we have not purchased—for example, the pastoral lands in Northern Australia—where we are now looking at bringing pastoral land back into production. I think we have been successful in doing that. That is costing a fair bit of money to do. We are not just concentrating on acquisitions; we are putting as much effort into allowing people to derive benefits from already held Indigenous land.

**Senator CARR**—What is the evidence of your success that you speak of?

**Mr Galvin**—In the Northern Territory in the last year and a half we have put about 20,000 extra head of cattle on Indigenous pastoral properties where, for 25 years, this has not happened. The herd numbers had continued to drop. At Cape York, for instance, we are putting cattle on Crocodile and Welcome stations, and assisting people at Strathgordon and Silver Plains to put in cattle projects. We are doing the same in the Kimberleys. This is underpinning an economic base on these properties, bases that have eroded for whatever reason over the past decade or two.

**CHAIR**—Are there any more questions? There are not. Mr Galvin, I understand there are two things that the committee has asked you to provide out of session. One is some particular information on the 19 properties that you are expecting to take responsibility for, and the other is some further information you have received on the urban purchases. What period of time you were interested in for those urban properties, Senator Scullion—two years?

**Senator SCULLION**—If it is indicative it will be sufficient.

**CHAIR**—Mr Galvin, I thank you for your evidence and your patience in waiting for the committee to hear it.

[2.11 p.m.]

**MALEZER, Mr Robert Leslie, Chairperson, Foundation for Aboriginal and Islander Research Action**

**TOMLINSON, Dr John Richard, Private capacity**

**CHAIR**—Welcome. Dr Tomlinson, since you are the only witness here at the moment, we will proceed with your evidence first and if other expected witnesses turn up we will take their evidence then. Do you have any comments to make on the capacity in which you appear?

**Dr Tomlinson**—I am a senior lecturer at QUT, in the School of Humanities and Human Services.

**CHAIR**—For your information, the committee prefers all evidence to be given in public but should you at any time wish to give your evidence or part of your evidence or answers to specific questions in camera you can ask the committee to do this and we will consider your request. I point out that evidence taken in camera may subsequently be made public by order of the Senate. Dr Tomlinson, would you care to start your evidence with a statement and then be subjected to questions?

**Dr Tomlinson**—Yes. I have been increasingly concerned since 1996 that the residues of the race war that started in 1788 have become more and more oppressive. I feel that we have to move from a cease-fire to a peace treaty and, before that peace treaty can be just, there is a need to provide adequate reparation for Indigenous people so that they are in a position that they can have self-determination in a way that is not dependent on the goodwill of the invaders. I am particularly concerned that we are not narrowing the difference in health profile between the Indigenous and non-Indigenous communities. There is about a 20-year difference in the average age of death between the two populations, as you know. The retreat from having Indigenous representation at a national level to having people occasionally invited to give advice has been a major problem. The failure to adequately bring Indigenous people to an equal level of wealth to the rest of the population creates a sense of injustice that leaves this country badly marred in international eyes.

The other thing that is part and parcel of that for me is that if Aboriginal people were given adequate reparation at the moment there would be a backlash. In order to stop that happening, European and other Australians would need to be given something like a basic income as a way to compensate them in their eyes and bring them into equality with Indigenous people. That is basically what I am on about. I have written a paper—I think it is about 12,000 words long; it is my attempt at brevity—and I would like to tender that to the committee.

**CHAIR**—Will that be a supplementary submission, Dr Tomlinson?

**Dr Tomlinson**—Yes, thank you.

**CHAIR**—The committee agrees to accept that submission.

**Senator CARR**—Dr Tomlinson, I read your submission with interest. As you would be aware, I am relatively new to the job of shadow minister, and I was surprised by your remarks directed at Noel Pearson's views on welfare dependency. I wonder if you could elaborate on your view. You say specifically that he lacks knowledge about Indigenous social welfare. Could you explain to the committee what you had in mind.

**Dr Tomlinson**—Yes. I think he assumes, because drunkenness and Indigenous poverty are often found together and domestic violence is associated with those, that there is a causal link between welfare dependency, to use his words, and drunkenness and other things. I drink more than most Aboriginal people, but I hold down a job, simply because my intake of nutrition and the situation in which I am placed in terms of hygiene mean that my body is not run down by that.

One of the things that Noel constantly refers to is Aboriginal people not lifting themselves out of the situation. Noel looked at what happened in the seventies, but his rendition of what happened in Hopevale is not what I saw in the sixties. Is he saying that those were the golden days of the missions, when people did not get social security? David Martin, an anthropologist who has worked in Cape York, says that there is no causal connection between the presence of social security benefit and the lack of industry. It is virtually impossible on the cape and in many other parts of Queensland to develop an industry without massive economic infrastructure—roads, access, a port—being put in. The forestry industry is assisted; the car industry is assisted, but if Aboriginal people were to develop an economic situation, the last thing you would do is start with a welfare system. You would start with an economic development system, and you would put in the necessary infrastructure.

In the paper I have just tendered, I argue that where minerals are being extracted, at least on land to which Aboriginal people have native title, they should own that mineral, and that should be the basis for a 50 per cent partnership in any organisation that sets up in Australia. That paper refers mainly to Queensland, but it can be extended to that. The basis of their 50 per cent equity would be their ownership of minerals.

**Senator CARR**—Pearson goes on to argue that the particular form of Indigenous property ownership in this state means that access to capital is somewhat limited, because banks will not lend on inalienable title. What do you say to that?

**Dr Tomlinson**—Adequate reparation paid to Indigenous people could be the basis on which some of that could be provided to an Indigenous bank. Some of that could then be loaned to particular enterprises. I think it is the Bank of Montreal in Canada that used to have very little money loaned to or deposited by Canadian indigenous people but over the last decade it has massively expanded that to where at least \$1 billion is invested by indigenous Canadians in that bank. It is also lending to indigenous people. You can loan on the things that are built—the houses that are built. You do not need to loan to land. There is a whole range of ways to do that, but essentially the amount of money made available for Indigenous people to have access to credit has to be increased. How that is done I would leave to decent economists and accountants. But the job I see for politicians is to make that money available.

**CHAIR**—At this stage, we will welcome Mr Malezer. Thank you for coming. We will not run through all of the stuff about in camera evidence, because I know you know about that. We will

give you the opportunity to make a statement, and then we will return to questions from senators as required. Mr Malezer, we have received your submission this afternoon. We have not got enough copies for everybody so, on the basis of that, in your opening statement you can refer to anything in particular and then the committee will read the submission in detail later. If you would like to make a short statement to begin, that would be fine.

**Mr Malezer**—I am very pleased to see John. As a youth, I started out listening to John speak here in Brisbane, and I think that has influenced me very much in my career.

I apologise for my lateness and also for the fact that we have only just presented a written document to the committee. It is a difficult situation for our organisation at the moment to present materials, given that a lot of our funding has been affected by the changes. What we have endeavoured to do is present an argument which is, we think, a little bit different from just talking about details of models of ATSIC and of future ATSICs; it is more talk in relation to principles of human rights. There is an agenda going on internationally where indigenous rights are being looked at. They are being treated as an international matter and not just a matter for domestic policies. Human rights standards are in fact already in place, but they will be complemented very soon by the creation of a declaration on the rights of indigenous peoples, which the Australian government would like to be concluded this year. But I think most indigenous groups would like another two or three years to at least finalise some discussions we have about indigenous sovereign rights over things such as natural resources, minerals below the surface and other resources above the surface of the lands.

We believe that in Australia there has not been really any effort made, first, on behalf the people who are responsible for knowing about these human rights areas to inform themselves and their colleagues, members and government, public servants and so on about these international standards but also not to keep this information away from the public. That, we have made the point in our submission, occurred specifically in the years 1999-2000 and 2000-01, when Australia was before the UN Committee on the Elimination of Racial Discrimination and was found to be in breach of an international convention. The popular media response to that was, 'Who are they anyway?' and 'This is all irrelevant,' when in fact it is extremely relevant. Australia is simply holding back what is an inevitable situation where it is going to be accountable in relation to these matters.

We also present the line of argument that the demise of ATSIC is not a new thing. I was secretary-general of the National Aboriginal Conference in 1985, when it was wound up by the government, which, in the long term, did not serve to particularly disadvantage Aboriginal people. There has been a call made by some people in the Aboriginal community, including us, that this is an issue for Aboriginal people, not so much for government. The government is more and more bound by its international human rights obligations. These are not things that can be decided by backroom policy at a Melbourne newspaper or even by legislation in parliament. They are, in fact, international human rights obligations which are legal and which Australia should be looking to implement.

So, in our submission, we present an argument that there are two viewpoints, or two sides, coming together. There is the government, representing the interests of the nation and its people. We talk about the need for good governance. The government should use good practices to be truly representative of the population and play the role expected of it as a member of the United

Nations and the Commonwealth, which is to be part of educating and forming an awareness in the public of the obligations and standards that need to be met. That also means being a government of the people, which listens to and responds to people and does not dictate, marginalise and even disparage a section of the community.

On the other hand, there is a need for Aboriginal people to be able to present to government, in a logical way, what their rights are and how they need to be met. In our submission, we have pointed to a number of instruments that are relevant to that, including human rights standards. Obviously, there is the Convention on the Elimination of All Forms of Racial Discrimination, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. There are other standards which apply. For example, I have made reference to the declaration on human rights defenders. In part, we make a case that ATSIC's current situation is a matter that can be taken before the Special Representative of the Secretary-General on the situation of human rights defenders to say it is an attack on a human rights defender organisation. We believe this is part of the circumstances we are dealing with.

We also say there are not only standards which we should be looking to but also programs of action which Australia has an obligation to be implementing. There are programs of action arising out of the Vienna declaration of 1993, which was to establish a national action plan and use that as the basis for engaging with human rights organisations in relation to fulfilling the commitment to human rights. There is the Durban declaration of a program of action on the elimination of racism, which has specific recommendations relating to indigenous peoples. There are one or two others that I mentioned. We have also just started the second decade of the world's indigenous peoples. That was declared by the General Assembly on 20 December. We believe the UN was hearing our call that a second decade was necessary, because, while much had happened internationally in the first decade, very little happened with governments in that decade. A second decade was necessary to focus on improvements in communities and the obligations on government, during the decade, to fulfil obligations to human rights and indigenous peoples. That decade has been declared, and it started on 1 January. We expect that we will be able to engage with the government in a dialogue about Indigenous affairs and policies through the national human rights action plan which the government released in December—not a good action plan—and also through the process of the International Decade of the World's Indigenous Peoples.

I had intended to include recommendations, but basically we are saying that this is not a disaster for Aboriginal peoples. If anything, it represents a bigger disaster for government. Since the government took national responsibility for Aboriginal affairs in 1972, there has been a need for government to have some way of plugging into the Aboriginal community. That is very difficult to do if there is not some sort of structure in place, simply because Aboriginal society is based very much on communal, kinship type structures and governments and departments can get very confused if there is no way of gauging that.

So, since 1972, governments have been creating organisations like the NACC, the National Aboriginal Congress, the National Aboriginal Conference—three forms or three models in the space of, I think, 12 years. The National Aboriginal Conference was abolished in 1985. The Aboriginal Development Commission was created, and then, by, 1989 the shadows of the NAC, plus the ADC, plus DAA, were combined to create ATSIC. ATSIC has fluctuated between whether it is a government organisation or an Aboriginal organisation, and it is about to face a

demise. But we expect that ATSIC will be succeeded, out of a government more so than a community need, by a national one-stop shop. Aboriginal people who go on to a new representative body will demand at least a starting point based on what has been achieved—that is, salaried positions, control over programs, a bureaucracy and structure to support them and so on. That is a starting point for the next phase that might occur.

Ultimately, of course, we hope that we will be looking at opportunities for partnerships between the government and Aboriginal people in the way that these things should be done. These are demands that are coming from the international community, first heard by the government of Australia from CERD, which said that the Native Title Amendment Act 1998 should be suspended and the government should enter into partnership and discussion with the Aboriginal people.

Every international document concerning indigenous peoples that has been created since 1993 has talked about government and partnership with indigenous peoples, and I believe that that is the motivation and driving force. I will finish up by simply saying that we are not trying to propose any models, we are not trying to propose an immediate step. We are trying to say that there is an agenda that is rolling, and it is better for a situation where rights and standards are observed and where the exercise of good governance is observed.

**CHAIR**—Senator Johnston, do you have any questions of either of our witnesses?

**Senator JOHNSTON**—I am looking at your submission, Mr Malezer. You say here that, in 1978, the United Nations Education, Scientific and Cultural Organisation set forward a declaration on race and racial prejudice. You have quoted article 5.3. The media comes in for serious review, and that article states that they should refrain from ‘presenting a stereotyped, partial, unilateral or tendentious picture of individuals and of various human groups’. What if the conduct of so-called leadership of a particular racial group is precisely that? How does the media then purport to broadcast that conduct? In your view, should it simply say that because the leadership is of an Aboriginal and Torres Strait Islander nature we must not report it, or should it adopt a different mode of reporting, as it would report, say, the HIH leadership? I am interested to hear your view. When I look at the media coverage of the conduct of the Aboriginal leadership which I think has been the catalyst to the abolition of ATSIC, I did not see it as any different from that of some of the more notorious white-collar criminals in our community. I am interested to hear you say what you would like to see, if you accept that the conduct is as I have described.

**Mr Malezer**—I do not disagree with the way that you have presented the argument—that is, where the matter is relevant and where it applies to a race then the media has every responsibility to report that. Somewhere in the document I have a further discussion about the events that surrounded ATSIC and the fact that it focused very much upon an individual and not very much in relation to the person’s race or the relevance of race. There is another case that relates to an individual, an ATSIC commissioner, which again does not relate very much to being a racial issue. I have actually been an advocate of the media reporting things. I would like the media to report what ATSIC does, what the government does and what any agency does when it is in my interest, so that I am able to be informed and able to deal with those sorts of things. I am a great believer in the role of the media to investigate and report these things. I think the media has generalised and stereotyped a little bit too much.

It is very hard because I have not numbered my pages and paragraphs, but further on I actually mention some names, such as Janet Albrechtsen, Piers Akerman and Andrew Bolt. I have some quotes, one particularly from Andrew Bolt. I will mention the Janet Albrechtsen one. This is a quote from an editorial in the *Guardian* newspaper. It reads:

The Government's real intentions are revealed in a scurrilous article in The Australian ... written by Janet Albrechtsen, a pen-prostitute if there ever was one—

those are not my words but theirs—

She writes: "... the policies of the International Year of the World's Indigenous People, based on self-rule with little accountability, have done more damage to indigenous Australians than the white missions of the 1930s did".

To me, that is a broad assumption that is disparaging to all indigenous peoples, including the Indigenous peoples of Australia. Some of the other quotes that I could use are similar in that they go right beyond the actual incident. Where there is crime, where there is disruption or where there is an action of an accountable public official it should be reported and given some public scrutiny. I am all in favour of that, but I am not in favour of stereotyping.

I really do believe that in the ATSIC situation the actions of one or two people which were questioned, but not necessarily proven, became the basis for the government's dismissal of ATSIC. I actually have the words in the document, that the board itself has not committed any wrongdoing. I have seen nothing in the media and nothing in government evidence of any wrongdoing by the board of ATSIC and yet the government has chosen to dismiss the board. Basically, my response is that I agree, but there are points that go over the line. The UNESCO document actually does talk about where matters become racial discrimination and at what point matters become discriminatory.

**Senator JOHNSTON**—Further down that same page you say:

While the government might pretend that it wants to provide job opportunities for Aboriginal people, it wants in reality to use employment and mainstreaming to break down Indigenous identity amongst communities and to use racial equality as justification for ending cultural identity.

Firstly, do you have any evidence of that other than simply an opinion?

**Mr Malezer**—I have tried to present some evidence in the document. Again, go towards the back and look at the comments I have written about Australia's national action plan. Basically, when the national action plan talks about Indigenous peoples it does not talk about the rights agendas, Indigenous peoples on land or Indigenous peoples surviving as communities; it focuses upon 'Indigenous equality' and dealing with 'Indigenous disadvantage'—I think those are the two phrases that are used. In the document I explain that, quite clearly, when you look at it, when the government talks about its Indigenous policies it is trying not to see Indigenous peoples; it is trying to say, 'Well, if people don't have jobs or if people are in remote areas or if people don't meet the income means test then of course we should be doing this for them,' but there is nothing in relation to the fact that there is an obligation to an Indigenous community's ability to survive and for Indigenous cultures to survive. In fact, even in the reconciliation documents the government does not talk about programs about the survival of Indigenous peoples as peoples; it

talks about the survival of 'Indigenous'. This is an issue that comes up in international discussions, where there is a constant push and pull between treating people as individuals, where race should not be an issue; treating peoples and cultures as distinctive; and tolerating, encouraging and respecting diversity. There is not much that comes from the government in that area.

That is why I am saying that this is actually assimilation, because it is very hard to distinguish what is different between the policies of the government today—what is the distinguishing factor of the policies today—and the policies of the government of the 1920s, for example. In those days they wanted Aboriginal people to learn, to be well educated and when they were well educated to move off the reserve, be put in a paid job et cetera. When families were successful and could look after the health of their children and so on they were allowed to move off the reserves and into an urban area. I cannot really see much distinction.

I referred earlier to the Bennelong Society, which I said is a place where one might anticipate government policy being announced. That could be a bit unfair on the government. The Bennelong Society made submissions to a previous inquiry into ATSIC, but I did not see a submission from them to this inquiry. That society is made up of former government members, people who have made it quite clear that their authority comes from the fact that they have been ministers for Aboriginal affairs and so on. They are talking about ending Aboriginal communities. They are talking about moving people from remote areas to places where jobs exist. I do not think we have heard those words from the government yet, but I certainly have heard about moving children away from the areas to put them into schools and so on. My test for whether this is assimilation or not would ultimately be to look for distinctions from what was there in those earlier policies to what is in the policies of today.

**Senator JOHNSTON**—You say here that the only significant efforts by government to eliminate systemic racial discrimination against Aboriginal people can be found in the efforts to establish self-determination. What particular efforts are you thinking of when you say that? Give us an example of what you perceive to be the positives, because those efforts have been made by none other than governments.

**Mr Malezer**—First off I have to question whether since 1972 any of the national governments have really adopted self-determination. I believe that the Whitlam government did use the word 'self-determination'. I believe that the Hawke-Keating government did use the word 'self-determination', particularly when Robert Tickner was minister. But it is a real question as to whether they were talking about self-determination or self-management. Certainly the ATSIC Act says 'self-management'. I think self-determination is expressed in some ways by the operation of ATSIC—for example, ATSIC was able to choose what it funded and it did go wider than what the government has chosen to do in its practical reconciliation response in terms of the programs it ran. So it looked at things like intellectual property rights and made more of an effort in relation to the development of language, of Aboriginal schools and things like that. I think that is one of the things that ATSIC could do. I see that not so much as the process or exercise of self-determination but the fruits of self-determination—things are happening that the community actually wants to happen, things which have not necessarily been screened or predetermined by government. That to me is where self-determination is occurring.



**Senator JOHNSTON**—There are not many examples of that, are there? There are not many examples of community based initiatives that have not been totally dependent upon government funding.

**Mr Malezer**—One would think that self-determination would in fact provide Aboriginal people with an independent means which would not be called government funding. I would not go into a dialogue that started with ‘everything that Aboriginal people get is taxpayers’ money’ because, quite frankly, my taxes must be going to white people if that is the case. I think the starting point is that indigenous peoples do have rights, including to an economic base. If you look at the draft Declaration on the Rights of Indigenous Peoples, you see there are rights to restitution, compensation and so on. I did not get a chance to listen to much of what John was saying in relation to economic development, but I really think that tying money down and saying, ‘This is welfare’, ‘This is tied to the taxpayer’ et cetera, is counterproductive. I agree fully with accountability. I would like accountability because I am a client. But I think the idea has to be that when a dollar turns up it comes in ways other than from a taxpayer—it comes, for example, from the use of Aboriginal lands or Aboriginal resources.

**Senator JOHNSTON**—With the chair’s indulgence, I have one last question. Dr Tomlinson mentioned mineral rights. Knowing the little of the law that I do, the rights flowing from Mabo in the subsequent half-a-dozen findings, as determined by the High Court, have not granted or recognised the rights of minerals to traditional native title holders. You both seem to indicate that that is a problem and that mineral rights should flow to traditional owners. Is it not the case, though, that the relationship between the land and its traditional owners is not one that accommodates mining? How do we reconcile that?

**Mr Malezer**—My only answer is that a document was produced last year at the United Nations entitled: *Indigenous peoples’ permanent sovereignty over natural resources*. It talks about surface and subsurface, including minerals.

**Senator JOHNSTON**—So it is a sovereignty matter?

**Mr Malezer**—It says that it is an international legal matter. The fact that the High Court has not yet recognised that is a reflection more on the High Court. Does it mean that we did not have native title up until 1992, which is the time that the High Court recognised that? That is my answer.

**Dr Tomlinson**—Just in relation to minerals, people used to get quartz and they used to get ochre. They used to take other minerals from the ground and trade them over vast distances, over 1,200 miles. According to Professor Rowley, South Australia used to recognise mineral rights residing with the original leaseholders of the land. If we want to change that situation, we can just pass an act of parliament saying that from now on Aboriginal and Torres Strait Islander people will own the minerals of the land to which they have been found to have native title. The High Court would then hold that Aboriginal and Torres Strait Islander people owned that land and owned those minerals.

**Senator CARR**—Mr Malezer, you referred to the Bennelong Society. The Bennelong Society made a submission to an earlier inquiry. It still stands on the books of this committee, so it is automatically there. The society does not have to resubmit. It is headed up by a former Labor

minister, Dr Gary Johns, who no longer has any identification whatsoever with the Labor Party. The vice-president is a former Aboriginal Affairs minister, Peter Howson; the treasurer is Des Moore; and Ray Evans is the secretary. Board members include Senator Jeannie Ferris, a member of NIC, Wesley Aird and a number of others.

This body is reputed to have considerable influence in the determination of government policy. In their original submission they argue a case that seems to point to the proposition that an assimilationist policy should be pursued. They are quite blunt about that. Mr Peter Howson, in a recent paper discussing the consequences of the federal election, openly and directly argued the case for an assimilationist policy. On page 3 of his paper, he says that he is shocked by:

... the speed and totality, in the brief period 1967-1973, with which the separatists defeated the assimilationists of the Hasluck era. What now can be seen as a successful policy of gradual and unforced assimilation was very quickly denigrated and rejected, and replaced by a separatist policy which included self-determination, land-rights, reconciliation, a treaty, and ultimately aboriginal sovereignty ...

The reason I have gone through that long-winded introduction is that I am concerned by the approach that you have argued before the committee today that the abolition of ATSIC and the administrative changes that the government are proposing really do not amount to much because, in the end, they will be forced by way of administrative convenience to re-establish another body to effectively control Indigenous organisations. That is how I understand your argument. I am interested to hear that line of discussion because I do not think I have heard it before, particularly in these circles and from a person of your political persuasion. Can you explain to me why you are so confident that the government as a matter of administrative convenience will be forced to re-establish another ATSIC?

**Mr Malezer**—From the time the NAC was abolished it took five years to establish ATSIC. So I am not saying that it will happen tomorrow or the next day. It could be five years; it could be later or it could be sooner. Nor am I saying that it will be this administration. It could mean that there is a change of administration—whether it is a change in leadership or a change of political party. What I am presenting is a little more flexible. I am saying that it is an inevitable dynamic. Added to that, as I make it quite clear, the wolves are at the door. Developments internationally are coming to fruition and Australia is inevitably going to be confronted with them. I am trying to hasten that process simply by trying to say that good governance says that the government already should be telling people in Australia that these are obligations and that the government should be doing those things. We also have the national action plan, so the government has finally put up a target of accountability et cetera. It is not that simple but I think your statement is a good summary statement of what I would say, in a single point, but it is a little more complicated and dynamic.

**Senator CARR**—Invariably in a summary one will simplify it. That leads me to the next point. If the government is pursuing an assimilationist policy—that is, a return to discredited policies—do you think that that may well have quite a serious impact on the capacity of Indigenous organisations and Indigenous culture in this country in the period in which we are waiting for the government to understand the folly of its ways?

**Mr Malezer**—Sure, and I made a brief reference to that. Organisations will start to disappear because the government is deciding to mainstream its service deliveries through departments and

so on. Those organisations will disappear because they do not have the resources to survive. Then people are going to feel the pain of dealing with departments that do not understand them and do not understand their needs, and that are blunt or mishandle the situation. We have been through that scenario. Many people have been around Aboriginal affairs for a few decades and have seen what we have had to move away from—where government was not able to get its services to Aboriginal people, and Aboriginal people were being very much offended by the sorts of services or the way in which they were expected to be delivered. I think there will be that reaction, too, and that is part of the dynamic. The pain will come.

**Senator CARR**—You said yourself that your organisation has already been affected. How has that occurred?

**Mr Malezer**—We put that in our introduction. We thought it was relevant because we tied it in with the fate of ATSIC as well. We were a native title representative body. I was the deputy chairperson of the National Indigenous Working Group and I participated in national and international delegations on native title and talked up what we would call the land rights agenda rather than the most conservative interpretation of the High Court's decision. When the government amended the act in 1998 it provided a provision to reappoint the representative bodies and we were one of only two representative bodies to be not reappointed. It is ironic that the body that got appointed in our place has never, since the time it was appointed, been out of administration and there is talk of it being closed down. We had that cut off.

We also had two activities going internationally. One was the repatriation of human remains. As soon as ATSIIS took the programs off ATSIC we got notice that we were to cease that function. We could be involved in repatriations within Australia but the government would bring repatriations back from overseas. Those of you who read the Indigenous news in the newspapers would have seen that the CEO of OIPC actually went over recently to pick up, I think, five crania from the Exeter museum. That was a repatriation we negotiated, but somehow it seems that Aboriginal people should not be doing that anymore and it is a job for the CEO of OIPC. We were also participating in international meetings of the UN on things like the declaration of the rights of Indigenous peoples, and those funds were cut as well.

**Senator CARR**—It just reinforces in my mind a concern, though. All this work you have been doing—particularly in the international arena, and the welfare work that other organisations have spoken to us about and the work in the communications area, where there is great uncertainty about the future of funding—points to the prospect of a loss of capacity.

**Mr Malezer**—Yes.

**Senator CARR**—Won't the political response of the government be to say: 'Isn't that good? We have actually removed a problem.' Who is going to know about this? I am interested to hear your view on this. You are basically saying that if people feel the lash they will understand the nature of their objective circumstances.

**Mr Malezer**—Yes.

**Senator CARR**—I am wondering whether or not that is true. Won't it just get swept under the carpet?

**Mr Malezer**—I might wonder too. Back when the government took \$450 million of the ATSIC budget—I cannot remember the actual year but I think it would have been in 1996—we felt that there would be a backlash from those organisations that were ceased at that time. I think 500 or more organisations around Australia were affected. I think ATSIC took the view to take it from that program because the government would see what the cutting of the money would mean to the communities. But there was no backlash. I could be guessing wrong to think that there will be a backlash, but I am relying on the fact that I have been around for three decades—I am still a pretty young person but I have been around and I have seen it, and in a lot worse situations than we are in now. I have also seen it in the way in which change is made. It is not government that has been driving the changes in Aboriginal affairs; it has been the community. It has been the agitation, and some of that agitation really hurts. The point I am making here is that I am not out to bash anyone up or throw people in jail; I am actually appealing for good governance. I am saying that it is not good governance for a government to dictate a policy to a section of the community and not have that community have a say in what is going on and what it is doing. It is poor practice and against everything that Australia stands for.

**Senator CARR**—You have commendable optimism. I hope we can continue this discussion.

**Senator CROSSIN**—I think there was some backlash, though, when the government removed \$450 million from ATSIC. One of the decisions ATSIC then had to make was to not fund women's resource centres. It might not have got the national media attention it deserved but there has been some considerable heartache in communities without those women's resource centres operating. In fact, local government councils have had to pick up the funding. Those women in fact ran Meals on Wheels or looked after aged people. Slowly, women's resource centres are doing that again but it is through local government funding or bits and pieces of grants they have been able to get. I think people are well aware.

**Mr Malezer**—I certainly would not argue with the view that things are bad and people are hurting out there. It is quite clear. We have had something like three riots in just over a year. That shows that in fact there are things going on. Normally governments pay attention when there are a race riots but in this case that has not happened. A large part of the submission we made is that there should be a proper program operating. We may be wrong in saying that; we are open to being wrong. But, quite clearly, we see that we can only find policy when we read it in the newspapers. We are not getting it coming from the government through official sources and in clear language. The national action plan is like an annual report defending the government, rather than a way of communicating to Aboriginal people what the objectives, aims, targets and goals are and how to work with government to achieve these things. It is just another added part of that propaganda.

**Senator SCULLION**—I have not had the opportunity to give sufficient scrutiny to your submission but if you could take some questions on notice if I need some clarification at some later stage I would appreciate that. Dr Tomlinson, you spoke briefly about the issue of the nature of land tenure and the difficulties with economic development in the mainstream sense. I think 'mainstream' is the right word to use—in the standard sense that, often, people need some sort of a currency of mortgage or something like that, and the difficulty with inalienable title is of course that banks and people do not see it as having collateral because of the nature of title. There has been some discussion. I would be very interested in the views of either of you on that.

In my investigations I would ask, ‘Why is it like this?’ Some time ago they said: ‘Well, if the blackfella owned his land, mate, he’d flog it off for a carton of VB in the back of the ute on Friday. There wouldn’t be any left.’ Of course, that is nonsense, because of the different ways we can hold land in community trust or mainstream ways such as freehold titles. What are your views? Do you think it should remain inalienable title or should it be standard bits of Australia like everybody else has?

**Dr Tomlinson**—I think there are many ways you could do it. One of the ways would be to make it inalienable freehold title residing in either the clan or the language groups that owned the land, but make it available for lease for periods. That would then provide money against which banks could lend, if that was 15 or 20 years or longer. Indigenous people have leased back native parks all around the place, so the model exists.

**Senator HEFFERNAN**—As individuals they could lease it back? Joe Bloggs could then lease it?

**Dr Tomlinson**—Yes, but it would remain forever Indigenous land.

**Senator HEFFERNAN**—Yes, but for plenty of the people I have spoken to one of the problems is that they are really not interested. The average punter wants to own his own TV and watch it with his family, right? He does not want to watch it with everyone down the street. Surely there must be an opportunity for an Indigenous person to own his own mob of cattle. As I said earlier, a lot of blokes want to own a few cows of their own, not a big herd that the mob owns—as an individual leasing the farm for an individual return. Do you agree with that?

**Dr Tomlinson**—No, we do not. There are some people who want to own land communally—

**Senator HEFFERNAN**—Yes, I agree with that.

**Dr Tomlinson**—and there are other people who may want to own land as individuals—to own that land separately, or that object.

**Senator HEFFERNAN**—But you would allow the individual to do his own thing?

**Dr Tomlinson**—It could be done on a leasehold basis, but the land would remain Indigenous land in perpetuity. If there is a conflict, the language or clan group will determine what happens to that land and whether it is leased.

**Senator HEFFERNAN**—I think this is one of the drawbacks to what we are doing now. There is a place called Booberoi Station—do you know where that is?—down the Lachlan River.

**CHAIR**—That is in a different state, Senator Heffernan.

**Senator HEFFERNAN**—There was a bloke called Rambo Rich, who unfortunately has passed away now, and the local mob got a grant of 28,000 acres there. There was a drought on and Rambo rang me up and said, ‘Bill, mate, any chance you could talk to the mob here about me being able to put 100 acres of oats in on this 28,000 acres?’ so he could feed his horses. I rang the mob up and said, ‘Look, Rambo wants to put in 100 acres’—they would not even notice

it—‘for his horses.’ They came back a week or two later and said: ‘No, there’s no communal benefit. It’s only benefiting Rambo, and he can’t do it.’ That is crazy.

**Dr Tomlinson**—I do not know the situation. I do not know what the individual did to get the group offside.

**Senator HEFFERNAN**—He didn’t do anything.

**Dr Tomlinson**—If you listened to Ted Egan on ABC Radio recently, he told the story of Vincent Lingiari, who was approached by the manager of Vestey’s—

**Senator CROSSIN**—Lend Lease.

**Dr Tomlinson**—Yes. He said during the walk-off that he had cattle that were going to die because the bore had broken, and he needed some stockmen to round up the cattle. Vincent Lingiari sent off three or four young fellas straightaway. Ted Egan said he was very surprised, because he thought, ‘Vincent, you’ve now got him where you need him.’ But Vincent said, ‘We couldn’t do that to the cows!’

**Senator HEFFERNAN**—You might make light of it, but some people want to live traditionally while some people want to go to university and get a degree. We have to be flexible enough. There is a percentage of the Indigenous community that are not interested in being in a communal home that is handed down; they want their own set-up. They do not want to share their TV with the rest of the street. They want to know that their endeavours, their worth and their efforts go into their own family, not into the mob. It is not everyone, but a proportion of people want to act as individuals. It is the same as that mob who came into Nookanbah off the cattle station. They said—

**Senator CROSSIN**—There is nothing stopping them from doing that.

**Senator HEFFERNAN**—There is.

**Senator CROSSIN**—What is stopping them doing that?

**CHAIR**—I think Senator Heffernan is asking for the witnesses’ opinion of that statement.

**Mr Malezer**—I was going to add the viewpoint—and you hear this all the time and I think this is what self-determination is about—of the importance of these populations being able to sit down and work out the solutions and how those solutions might interact. It can be a combination of a whole lot of things. In terms of being individual, you have to remember that in many parts of Australia Aboriginal people were forced to live socially as small individual groups. Moving together in large reserve communities and trying to survive as big communities is actually very foreign. It does not work very well with the way the structure is, because structure, as we all know, is through kinship and clan and usually within viable economic units and so on. So the fact that people want to own their own TV or have some sort of private involvement does not necessarily have to be foreign to Aboriginal people. It is not a choice between being Aboriginal or non-Aboriginal on the whole thing.

Ultimately, what John was saying, and what I think the original question was aimed towards, is that Aboriginal lands are always owned as communal lands. They are not owned individually. It is not part of that. Once people have the right of ownership and control over their lands and then need to face an economic development proposal, the challenge becomes how to get an economic benefit out of this arrangement. In the ACT—I was there just a few days ago—they have 99-year leases. It does not seem to stop the market of people being able to privately own homes and so on, but they never hold the underlying title. One would not expect it to happen, but it can always be resumed as the underlying title. That is the way in which the challenges of traditional title can be handled—what lease or what overlying arrangement can be negotiated and made with it. It does not have to be as difficult a problem.

The key to all that—and I think I heard John saying it when I first sat down—is you need to have something like a development bank. You need to have a form of banking which actually helps that economy to generate. Land on Aboriginal communities would have no market value if it was just simply leased in blocks, because there is no trade or commercial interest, but if there was a development bank that actually could create a way in which things can be traded and so on, it could get towards that. There are development banks and regional banks but unfortunately, because Australia is a First World country, the Indigenous peoples of Australia are excluded from those sorts of resources and are looking for those means.

**Senator HEFFERNAN**—Do you think there would be communal properties that would agree that they could sell the lease to someone, which in itself becomes a bankable item?

**Mr Malezer**—The idea if you have the lease is that you can sell that lease on to someone. If it has a market value, you can trade it and make wealth out of it. In the last 12 months, the wealth of most Australian home owners probably increased by \$100,000 because of that boom in market values in the capital cities. Simply by sitting at home and watching TV they have become \$100,000 richer, but it did not happen to Aboriginal people, and somehow Aboriginal people have the same right to get wealthy the same way—by sitting at home and doing nothing.

**Senator HEFFERNAN**—Nookanbah is a really good example—or my impression of it is anyhow. It was a generously proportioned sheep station years ago that used to run 120,000 sheep. There is a huge old woodshed there that was dismantled. Then it was turned into a cattle property, and I think the Western Australian government purchased it for the mob out there. Then they had to de-stock it for tuberculosis and brucellosis testing, but they did not give them any money to restock it. So all that happened there—when I was there a few years ago—is that the local mob lived there quite contentedly but they did not have any reason to get out of bed in the morning, because there is nothing for any individual. They would have been better off if they could have leased the bloody joint, got a couple of thousand cows and got going and got a quid. It is just a waste of resource.

**Mr Malezer**—I understand the industry is over. I think with the grazing of cattle and sheep in Australia, like the sugar industry, the days are past and the land cannot keep on taking the sort of abuse that has happened to it over a hundred years.

**Senator HEFFERNAN**—Mistake Creek in the Territory—which I am sure Senator Crossin would be familiar with—is a very successful cattle station run by an Indigenous community. You can do it.

**CHAIR**—Mr Malezer and Dr Tomlinson, are there any final comments that you would like to make?

**Dr Tomlinson**—I would like to round up by saying that I think that, if we continue to treat Indigenous people in this country as ours to do what we want with—whether it be to impose mutual obligation or whatever—we are going to run into trouble, and it might be that we increase the death rates, the illness rates or whatever. If people had a basic income that would at least give them the opportunity to decide what it is that they want to do and that would free both non-Indigenous and Indigenous Australians to run their lives in a far happier and less constrained way.

**Mr Malezer**—The bottom line in our submission is that there is not an Aboriginal agenda rolling. Certainly in my work I see that linked very much to the international Indigenous agenda. I see progress and I see light in where these things are going. I think it is just a case of how well Australia sets itself up to deal with new requirements for human rights for Indigenous peoples.

**CHAIR**—Thank you very much for your evidence and for your patience. For the record, I advise that the Bennelong Society's submission was actually made to the ATSIC review committee and not to this select committee, but it is a public document and has been released.



[3.15 p.m.]

**CONNOLLY, Dr Dianne, Coordinator, Balonne Indigenous Progress Group and South West Queensland Traditional Owners Natural Resource and Cultural Heritage Management Association Incorporated**

**HUBBERT, Mr Chris Arnold, Member, South West Queensland Traditional Owners Natural Resource and Cultural Heritage Management Association Incorporated**

**WATERS, Mr Ronald James, Chairperson, Balonne Indigenous Progress Group**

**WHARTON, Mr Wayne Morris, Chair, South West Queensland Traditional Owners Natural Resource and Cultural Heritage Management Association Incorporated**

**WISEMAN, Ms Kym, Coordinator, South West Queensland Traditional Owners Natural Resource and Cultural Heritage Management Association Incorporated**

**CHAIR**—I welcome representatives of the South West Queensland Traditional Owners Natural Resource and Cultural Heritage Management Association Inc. and the Balonne Indigenous Progress Association Group.

**Mr Wharton**—Before we start, there is a bit of protocol that I would like everyone in this room to acknowledge. I pay my respects to the traditional owners of this country we are meeting on. I also pay my respects to the many people who have gone before us who have experienced the same situation that created this environment that we are now going through and that both parties are trying to deal with. In honour of those people I would like to call for a minute's silence, just so that we can all reflect. I know you have had a hard day, but it is part of my law and custom, and it is part of the custom of my people, to pay respect to those people with a minute's silence.

**CHAIR**—Certainly, Mr Wharton, we will accede to your request.

*A minute's silence ensued.*

**Mr Wharton**—Thank you.

**CHAIR**—Mr Wharton, I just want to remind your group that we did begin the hearing today with an acknowledgement of the traditional owners. It is a standard process. That is just so you know for your record. Could we start with some acknowledgement of who you all are and what association you represent.

**Mr Wharton**—I am a Kooma man. I am chairman of the south Queensland federation of traditional owners and also chairperson of the body that we represent here today.

**Senator HEFFERNAN**—Where do you live?

**Mr Wharton**—I basically live on my country in Kooma. The closest town that I come from is Cunnamulla. My country is the Nebine River. It goes down to Cubbie Station, down to Dirranbandi, up to the top of the Nebine-Morven range and across to the Maranoa—

**Senator HEFFERNAN**—Down below St George—that country there?

**Mr Wharton**—No, straight parallel with St George, from Mitchell across to the Maranoa River, down towards where the Wallam meets the Balonne, and then across to the Cashmere and then follow the Cashmere down along the Balonne River, all the way down to Dirranbandi.

**Senator HEFFERNAN**—Cubbie Station?

**Mr Wharton**—Cubbie Station is the core contingent rights of my people on the southern boundary. We own 140,000 acres that adjoin Cubbie Station.

**Senator HEFFERNAN**—Did you buy Murra Murra?

**Mr Wharton**—We own Murra Murra and Bingie Hills.

**Senator HEFFERNAN**—I have had cattle on there on agistment. You got it off the Goodwins?

**Mr Wharton**—Yes.

**CHAIR**—Senator, we have other people who have to introduce themselves, and you can have this conversation later.

**Senator HEFFERNAN**—Bloody wild country!

**Mr Wharton**—We would have liked to have kept the stock that the Goodwins wanted to leave with us but, at the ILC, the person that you had on here before did not think it was worth while to give us the stock as well as the land. He probably thought we were going to grow corn, or borrow corn off the Indians!

**Mr Waters**—I am a Kamilaroi man, born and bred in St George. I am chairman of the Balonne Indigenous Progress Group.

**Ms Wiseman**—I am from Kamilaroi, St George. I am the current regional catchment coordinator for the Cultural and Heritage NRM for the Maranoa, Balonne and Border rivers catchments. 2

**Senator HEFFERNAN**—Were you on the Lower Balonne working group?

**Ms Wiseman**—No, Ronny was on that, I think.

**Dr Connolly**—I am a Kamilaroi person living at St George. I am the Leadership Coordinator of the Balonne Indigenous Progress Group, in-kind Coordinator for the South West Queensland

Traditional Owners Natural Resource and Cultural Heritage Management Association and also the in-kind coordinator for the Kamilaroi lands trust.

**Mr Hubbert**—If you do not mind, I will give my personal acknowledgement of traditional owners, given that my partner and wife is a traditional owner from here and I know her people look to me to make sure that I am acting appropriately at all times. I am a Euahalyi man. I am support officer for the team here. I am here in that capacity, but I have worked and currently work for a number of government departments implementing social, NRM and other major programs in the south-west region.

**CHAIR**—I will go through the standard introduction to witness statements and then we will continue. As you know, the committee prefers all evidence to be given in public, but should you at any time wish to give your evidence or part of your evidence or answers to specific questions in camera you can ask the committee to do this and we will consider your request. I would point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. I now invite you to make a short statement and then perhaps take questions from the senators.

**Mr Wharton**—I will explain the process we would like to take. I want to give the first part of an introduction which we have broken down to three areas. Ms Wiseman and Dr Connolly will address the other areas. I do not want to spend too much time taking you back in history, but it is impossible to look at this situation without reflecting on history and what has taken place, over the process of colonisation of this country, with our people. First and foremost, I must say that the committee's logic about having the hearing here in Brisbane is something that we have always experienced. It seems that every time you guys, or the colonial descendants, have a problem with Aboriginal people you make an unrealistic situation for our people to come and try to advise you about your problem.

I must make it very clear that our people do not have a problem with being Aboriginal. None of us have a problem with being Aboriginal. But with the onset of colonisation it has become a problem for the hereditary governments that existed in this country. This must be stated fully and foremost: it is not our problem. We come here with the intention of trying to assist you people with your problem—how to accommodate us in the society that you are trying to develop. That is the conception and that is the understanding of why we are here. We do not have a problem.

The first rule when you are trying to obtain information from people is to try and develop a position of equality between the parties. That has not been done. You guys have your resources, you had your TA paid, you had airplanes, you had cars, you had secretaries and you have rooms. None of our people who came here today had any assistance or resources to get here.

What I have heard this morning and what I imagine you have heard around the country, from the guts of many of the submissions, has been based on self-perpetuation of different empires that different people have put their cases to you about. I sat here this morning and I was sick and somewhat bewildered about why we have come here in the first place when we see the same things happening time and time again. We go through the whole issue and, with the current government's talk and language about mutual obligation, people sometimes seem to think that the whole question of ownership and rights in this country is being defined.

The question of our rights has never been defined and has never been clearly interpreted or addressed by any Commonwealth government since Federation. Since Federation we have been the recipients of legislation designed to address your fellas' problem. The historical position goes back to the cases and the policies that colonial governments had in the first days, of just blatant genocide against our people. Because of the humanitarian arguments, that legislation was flawed and was replaced by the assimilation process. I will not go on to that, because I understand you have had a fair bit of debate and discussion about that with a previous witness. We then got onto the first stages of something called self-government in the days of the ANC—Aboriginal National Congress—and then we went back to a semi-assimilation process under the DAA. We are now heading back towards a self-government approach with the ATSIC proposal. It seems to be that, as the problem is handed from one political party to another, the first change the Commonwealth does to any of its positions is to go back to the Aboriginal problem they have and try to reinvent the wheel. This is nothing new. As I have said, it is history. All we are doing here is going back and looking at another model, another bit of legislation, that is going to suit the incumbent government for the time being. When there is an election in three years time, the first thing the next government will do when they come back in is they will change the Aboriginal problem that they have.

The situation for our people is one of frustration. Many of our young people are getting to the point of desperation, where they are sick and tired of trying to solve the problem and they are taking the solutions into their own hands and venting it at a community level. The days when we had sit-ins, the days when we had the riots and the days when we had stand-up fights in the communities—in the picture shows, in the main streets of the country towns and in the pubs—are not too far off coming back again. If you do not believe me, go to any of the country towns. Go to Dubbo, go to Cunnamulla, go to Charleville, go to St George, go to Toomelah or go down to Goondiwindi when the court case comes up next week. This situation is getting to this point because of the lack of leadership on both sides—the lack of leadership within our own people and the lack of vision and the lack of understanding coming from government, whether it be the previous government or the existing government.

I am not going to go into the international obligations undertaken by colonial governments and the charters that were signed, as the previous speaker did, but these are real issues that we are faced with within our communities that go back to the fundamental issue of the existing so-called sovereign state recognising our laws. The native title process defined those laws. It defined what Howard is calling now the 'mutual obligation'. The mutual obligation, for the people that do not understand it, is that, as the so-called sovereign government—or the state or the Crown—you have the obligation, particularly under the native title process, to recognise those rights and those laws that apply to us.

With that legislation and the High Court judgment, we have seen a number of changes, a number of modifications and a total bastardisation of that process of mutual obligation—respecting your law, which clearly defines our rights and our customs within our laws. The whole existence of and the conflict between the Commonwealth, the state and the local governments further enhances the bastardisation of it and further erodes any possibility of mutual respect and mutual obligation. Before we talk about mutual obligation in terms of services and resources in our communities, the highest government in this country has to show some mutual obligation to our rights and interests as traditional owners and as native title holders. This can be reflected no more clearly than in Justice Spender's address and summary

two months ago of the Federal Court's concerns about the commitment of the Commonwealth to the native title process. If a mob of Federal Court judges are not listened to about a due process that is fundamentally enshrined within the laws of this country on how the Crown asserts its authority, then who are they going to listen to?

This brings us to the native title process itself. When we talk about this some people say, 'What the bloody hell has this got to do with ATSIC?' It has everything to do with ATSIC. Gerry Hand, who led Charlie Kumantjayi Perkins around the country to throw us a bastardised model of self-government, gave a commitment—his first commitment as the then minister—that the existing ATSIC structure, which had been allowed to flounder for 12 years, was to be reviewed and re-addressed within the first three years of his first term. It was never done.

The very fact that this government agreed in the Senate to create this committee and did not wait until this committee had finalised its deliberations before making a decision about the subject of this committee is a further indictment on the commitment of the existing government to honour the obligation—the mutual obligation—to honour our rights. We are saying that it always seems that, whatever government comes in, there is always money to go back and fix up a problem but there is never money to sit down properly and come up with a solution that is acceptable to both parties.

When Gerry Hand first proposed the model, we said it would not work. Everywhere around the country it was rejected, but it was forced upon us by a Labor government. The problems that have festered over the last 12 years have been a direct result of that. We are hoping that what comes out of this Senate inquiry is some sort of commitment that whatever body is proposed is going to be a body that is truly able to accommodate both our rights and the rights of the Crown to represent non-native title recipients. What we are saying very clearly is that ATSIC was totally inappropriate. We mentioned this and put this on the record, but the government that proposed it and the government that is in place at the moment were not committed to making those bodies accountable. A saying amongst our people every time we see something like this is that we are being set up to fail again. The feeling that I had initially when we came in here was: 'What's the use?'—as my daughter would say—'We're just going to fail again.'

The reason we are sitting here is that the alternative to that failure is something that is not humanitarian and is not acceptable behaviour under current laws. For too long the government has been in a position where it will not get away from the pub attitude—because one blackfella mucks up in a pub, the publican kicks the whole lot out. The government never had the resources within its management structures to identify, root out and get rid of the problem.

As we said to Gerry Hand 12 years ago, the democratic process does not apply; it does not suit our structure whatsoever. Your so-called democratic election process is not acceptable to our people. It is not derived from our law or our existence, and it is not inherent in us as Aboriginal people, as Kooma people. Your elected structure allows for corruption, for bastardisation, for numbers games. Our law, our customs and our represented structures do not allow for those things to come in. But I will tell you what: you people do not have a monopoly on greed, racism or theft. There are just as many people within our society and our communities who are thieves, who are not ashamed to take kickbacks, who are open for corruption, and who have built their empires on those things. But when we seek recourse through your legislative systems to break these people into accountability, the resources are not there for us to do it.

People wonder why there is so much conflict within our communities. It is because we take it back into our own law, and we make those people accountable the best way we can. When we try to go through your natural justice procedures and make these so-called regional managers, regional councillors and commissioners accountable through our own funding and the goodwill of a couple of legal people who have got enough balls to back us up and are not in the pay packet of someone else, we do not get the resources or the benefit of going through the courts and making these people accountable. The mechanisms are not there. The so-called office of evaluation and audit and the so-called office of fraud that are supposed to exist within ATSIC are no more than puppets. The regional managers and the state managers prostituted themselves in the hope of maintaining those positions. There have been a number of cases where we have been forced to take regional managers and regional councillors through to the Federal Court under natural justice procedures to seek recourse, justice and a fair delivery, but these same regional managers and state managers were there to bail those people out. This is the system that we have had to put up with for 12 months.

I guess the other delegates that are here today will take it further, but, in summing up, what we are saying about the history is, firstly, there has to be a new national body. What form this national body takes is very important. Secondly, this national body should be at arm's length of the two-party process that exists here in Australia at the moment. To have credibility it has to be in an autonomous position. Thirdly, it has to operate from a position of authorisation. The only way that you get authorisation, and the only way that authorisation exists in this country, is under the native title process and that refers to traditional owners. As traditional owners we are already being granted those rights. The process of native title is not about obtaining those rights; it is about getting those recognised by the state, local and Commonwealth governments. The misconception that we do not have those native title rights now, and that we have to wait for a Federal Court case, is total rubbish. That was clearly outlined after the Mabo decision, but there have been a lot of misconceptions, and a lot of legal people who have made a lot of money—and a lot of Aboriginal people who have been conducting representative bodies have made a lot of money. Like I said, the other delegates will talk further about that.

With the amount of money that has been spent on the native title process over the last 12 years, we could have bought our country back. There are too many middlemen. If this new body is to be created, it should not be created to be another middleman. In the old days we had names for the middlemen: troopers or mission protectors. They got the best rations. When the mission rations came to those communities, they got the best part of them. The cockies that nominated to dole out the rations in my country took the best bits. We do not need another middleman. When it comes to making your suggestions about this new body, we say: yes, there should be a new body, it should be at arm's length from any of the political parties that exist and it should be authorised. It should be authorised through the native title process to empower traditional owners to make the decisions and decide who their representatives are—not just bussing an extra 200 people into an electorate six months before the bloody election to get over the line and win a commissioner's job.

It has to come back to you fellas recognising our traditional representative structures. That is not hard. There are 600 different nations in this country. It is just a matter of creating a registrar and having each one of those people being able to vote for their own tribe and their own person. Each one of those tribes or nations exists within a language group that is often with 10 or 12 other groups. Being able to get your pyramid structure—your regional representative and your

state representative—is not a difficult task. The structure that exists at the moment with the ICC is nothing more than the same deadwood which propped up these bastards who stole money from our communities as commissioners, regional councillors and representatives of native title bodies.

The same regional managers and the same state managers are sitting in the same positions making the same decisions to give more money to the same people. This has happened since 1967. This has happened under NAC and it has happened under the existing structures of ATSIC for too long. How many times does an organisation or a person have to be charged with fraud? It is the manager's decision that that organisation gets money or that organisation does not get money. When that regional manager signs off on sending that organisation the money, who makes that regional manager accountable? No-one. Oftentimes they get a promotion and they go somewhere else. But this is the same deadwood that has been operating under a system of fear or favour in our country for too long. That is it in essence: fear and favour. They get the jokers in there—they get the plebs in there—in the regional manager's and state manager's job and they screw them over. Those regional managers prostitute themselves. But that person is a public servant; he is a servant to the Crown. When does the government make those public servants accountable for the stupid malpractice of giving a thief more money after more money?

If there is a new organisation that comes out, my section would like these general things to be looked at. Like I said, the other delegates can go into specifics about the particular areas we are worried about at the moment. One of those areas that we are particularly worried about at the moment is natural resource management because the only ones who can sign off on natural resource management is us fellas in our own country who have the native title rights to do it. For too long, both the state and Commonwealth governments have propped up these so-called representative bodies to go along and negotiate our bloody rights away.

**Ms Wiseman**—The main thing that we need to talk about with this is that there are both Indigenous and non-Indigenous people acting without a mandate and signing off on traditional owners' business on cultural heritage and NRM issues. Basically, they are acting illegally. This happens all the time. We deal with this every day within government departments and government funded bodies. There is a lack of appropriate traditional owner involvement within these NRM and cultural heritage processes, and that comes back to those authorised individuals having a say in these areas and in the development of natural resource management plans, water management plans and the like.

As has been said, the native title legislation clearly outlines the responsibilities of state, Commonwealth and local governments, yet the Commonwealth has allowed state and local government authorities to operate in an environment of ignorance and illegal practices. As I mentioned, this includes unauthorised people signing off on contracts. This can be seen through the Commonwealth's handling of the Murray-Darling Basin Commission. Here the commission is administered by the COAG ministerial council, which does not have an Indigenous representative on the board. There are not an adequate number of Aboriginal people employed within this organisation—and I only speak for Queensland—nor do they have any Aboriginal on-ground projects or programs in Queensland to date that I am aware of.

There is unfair Indigenous representation on the CAC. This includes an unauthorised appointment process for the CAC. There should be a male and a female traditional owner

representative from each state on that board. I put in an application for the Queensland section of the CAC last year.

**CHAIR**—What is the CAC?

**Ms Wiseman**—It is the community advisory council for the Murray-Darling Basin Commission.

**Senator CROSSIN**—And that is a federal body?

**Senator HEFFERNAN**—It is the one that Leith Bouilly set up.

**Ms Wiseman**—Yes. At the gathering of Indigenous nations last year in Canberra, somebody asked why there was no Queensland representative on the CAC and Leith said that no-one had applied. I actually applied—I was asked to apply—yet my application went missing and Leith had not found it.

**Senator HEFFERNAN**—Is that the thing that Gabby has been put on?

**Ms Wiseman**—Yes. My application apparently went missing. It never made it to Leith; she had not seen it.

**CHAIR**—Can we clarify that that went missing at the state government level?

**Ms Wiseman**—I have no idea. All I know is that Leith had not seen it.

**CHAIR**—At the commission level.

**Ms Wiseman**—Yes. Whoever handled it did not pass it on. The male/female representation for the CAC needs to be drawn from a suitable state representational structure—for example, one based on ancestral homeland estates included in the relevant natural resource management areas in Queensland. To date, there is a pretty big overlap in Aboriginal engagement processes within NRM and cultural heritage within the basin. We have DIPNR in New South Wales, we have the Murray-Darling Basin Commission doing their nation building, we have QMDC in Queensland and we also have DNRME in Queensland—so there is a pretty significant overlap of groups and departments doing the same consultation over and over. Yet we do not often get feedback.

As I said, there is a significant overlap in Aboriginal engagement processes for NRM and cultural heritage within the Murray-Darling Basin Commission within Queensland and New South Wales in particular. There is DIPNR in New South Wales, which is DNRME's equivalent. There is Native Title Services in New South Wales, and there is the Queensland Murray Darling Committee Incorporated. Everyone is doing the same thing, yet what are they actually producing? We still do not really know. We have not really got any on-ground projects.

With regard to the ATSIC funding of NRM and cultural heritage, there does not seem to be any accountability. One of the situations I am dealing with at the moment is that we have an ICC funded cultural heritage officer out in the south west. That person has no mandate from



traditional owners and I have yet to have a meeting with them. I do not know what they are up to and traditional owners do not know what they are up to, yet they still get funding. Regardless of how much funding it is, they are still getting it and the traditional owners do not know what is happening.

As far as we are concerned, we should have a say in what is happening about our own cultural heritage in our own country. I do not like the thought of other people—cultural heritage is one of the few things that Aboriginal people have left. Particularly out in rural areas, where there has been a lot of tree clearing, there is not much left at all, so we would like to protect what is left. Often, the fewer people who know the whereabouts of a lot of it, the better. You have all these unauthorised people running around undertaking cultural heritage business when they should not be. The cultural heritage act came in last April, yet ATSIC is still funding unauthorised cultural heritage officers there.

**Senator JOHNSTON**—When you say ‘the traditional owners’, has there been a native title determination in favour of the claimants?

**Ms Wiseman**—No, there has not been a traditional owner native title application put in for the TOs out there. We have been trying to get an authorisation meeting from the QSRB. I wrote a letter—

**Senator JOHNSTON**—The QSRB?

**Ms Wiseman**—The Queensland south rep body. I wrote a letter in November 2003, and I have yet to receive any correspondence back from them.

**Mr Wharton**—I think I understand the senator’s question. We are of the belief—and so are the Federal Court and most other people—that it is not necessary to have a determination of native title to have native title rights.

**Senator JOHNSTON**—I am not sure that is right.

**Mr Wharton**—You can ask Justice Spender; maybe he would be able to inform you a bit better. If your claim group are clearly defined and your claim group assert their native title rights, it is the obligation of the state and the local government authority and the Commonwealth to negotiate with that claim group, whether they have a determination or not.

**Senator JOHNSTON**—But negotiation may well be different to consultation on all aspects of public utility provision and a whole lot of other things.

**Mr Wharton**—No, if the claim group is clearly identified, and the process of native title, a clearance, an ILUA, or agreement, can be processed.

**Senator JOHNSTON**—That is correct. Are you a registered claimant body?

**Mr Wharton**—Yes. And this is what we are saying. In these situations you have a process over the last 12 years in southern Queensland, where over 60 tribes are concerned, where you have not one determination clearly processed and a native title rep body that has received over

\$30 million to process people's claims. It has acted in a way that is, I guess, to predict the result and to hamper any result—or to hamper being able to cross the line.

**Senator JOHNSTON**—Can we just pause here to get this traditional ownership issue clarified? The group that you speak for is the Kamilaroi/Gamilaraay.

**Mr Wharton**—Yes, so then you have ATSIC—

**Senator JOHNSTON**—They are a registered native title claimant?

**Dr Connolly**—No.

**Mr Wharton**—We are a claimant.

**Dr Connolly**—We are a claimant; we have not—

**Mr Wharton**—I will take it a step further. The same country for which ATSIC hired a cultural heritage officer comes onto my country, across the river from St George, and we are—I am—a registered native title claimant. And I say to them: 'Why are you giving this man money to come into my country and look at my cultural heritage when his country is over 1,000 miles away down on the coast?'

**Senator JOHNSTON**—So there is disputation from the rep body point of view as to who has got what? The rep body refuses to recognise you as the traditional owners?

**Ms Wiseman**—No.

**Dr Connolly**—No.

**Senator JOHNSTON**—They do recognise you as the traditional owners?

**Dr Connolly**—Yes.

**Senator JOHNSTON**—But you haven't got a claim in?

**Dr Connolly**—And the reason we haven't got a claim in is that we know where we come from; we don't have to prove where we come from. But the way the native title has been conducted is that, again, people working within government departments who know where the next mining, the next water or something else is going to happen, will put in—I will say it this way—a gammon claim to benefit themselves personally, and then all of a sudden that claim is registered. The process is set up so that 10 or 15 people can put a claim over a claim over a claim, and it is allowed to go on.

**Mr Wharton**—But the rep body in the whole process will still get their 40 per cent for the gas line going through and the oil line going through, and that money is meant to be kept in trust. If there is any conflict about who is the traditional owner for that group, the legislation says that

those rep bodies have to hold that money in trust. The rep body in question at the moment owes creditors something like \$1.4 million. Now, where is the trust money? It is not even there.

**Senator JOHNSTON**—I ask that you persist with this for a moment: are you going to lodge a claim?

**Ms Wiseman**—Yes, we are.

**Senator JOHNSTON**—And what is the timetable for that?

**Ms Wiseman**—We are talking to a lawyer at the moment and working through those processes right now.

**Senator JOHNSTON**—Notwithstanding everything you have said, a reasonable understanding of your position would be that you have some difficulty until you lodge your claim.

**Ms Wiseman**—A lot of that came in when the cultural heritage act came in. We are having issues at the moment with the overlap of the native title and the cultural heritage acts. There are claimant groups coming over our country, which clearly should not be there, but they are because of the gas pipelines close by.

**Senator JOHNSTON**—So you must respond to these applications and negotiations—you have to be party to them—and you cannot be party to them unless you have lodged your claim?

**Mr Wharton**—No, that is wrong. You can lodge a form 5 and then become a party to any claim, whether you are a registered claimant or not.

**Senator JOHNSTON**—But in terms of a determination—

**Mr Wharton**—No, we are not talking about a determination. We are just talking about negotiations and discussions. What we are saying is that there is due process. If a traditional owner group does not want to become incorporated, which is their right, and they do not want to go and lodge an application, which is their right, the tribunal makes available other mechanisms to become parties to claims. The form 5 process is the exact process that this group has adopted.

**CHAIR**—But then, Ms Wiseman, separate to that, is it correct that through another process you are having difficulties with being recognised?

**Mr Wharton**—No, the problem she has is to do with ATSIC—and that is what we are here to talk about; not native title—because the other recommendation is that ATSIC or the new body should not have carriage of native title.

**Senator SCULLION**—It should be separate?

**Mr Wharton**—Yes. It should be totally separate from any new body.

**CHAIR**—You have the problem on two fronts. The one you were explaining to us was the water process, and you were having difficulty getting a say there as well.

**Dr Connolly**—Yes.

**Mr Wharton**—And it is because of that process of piggybacking. The NRM groups think that just because there is a funded native title representative body there they can piggyback their cultural heritage legislation onto that body, they can piggyback the natural heritage legislation onto that body, and they—

**CHAIR**—One size fits all.

**Mr Wharton**—Yes. And it doesn't. It has caused nothing but frustration and lack of opportunity to our people—to my kids.

**CHAIR**—Ms Wiseman, were you going to continue with more concerns from your area?

**Ms Wiseman**—It has been brought to our attention that there are culturally inappropriate government employees causing division for community members. We went through this last year when we were devising community government structures for the shared responsibility agreements, setting up a negotiation table process to deal with the whole of government. I can name one issue in particular where there is a non-Indigenous woman writing policy on sacred women's stories within a state government department. This happens quite frequently where you have non-Indigenous people writing Indigenous policy. It is really hard to get involvement at a community level. What actually happens at the community level is totally different to what they perceive in a government department. That comes across in the welfare issues in particular. The problems that you have in a community, particularly in rural areas when there is no water and there is drought, include lots of domestic violence, lots of social problems and drug and substance abuse. So it is quite tied-in there.

Lastly, getting back to the issue of people acting without a mandate, government funded bodies are signing off on traditional owner business, for example, with other non-government organisations. I am aware of one situation with the Queensland indigenous development council, which I believe was formerly QWIG. I have heard that they have signed off on a deal with the Queensland Minerals Council. From my perspective and as a traditional owner, they do not have my mandate to carry out cultural heritage business, yet it still occurs, and when you want to find out information about these people, no-one knows who they are.

**CHAIR**—Or who to ask.

**Ms Wiseman**—Yes, exactly. It is shrouded in secrecy and there are too many gatekeepers there. So where is the money going? I believe they have been allocated—

**Senator JOHNSTON**—The tribunal has a record of who they are, and the tribunal will tell you who they are.

**Ms Wiseman**—Well, I have tried to find out, and I am still trying to find out. I have written ministerial letters and the whole lot.

**Senator HEFFERNAN**—Find out from Joanne.

**Senator JOHNSTON**—Yes. Let us know—

**Ms Wiseman**—It is really vague. If they are writing Indigenous policy, I think we would like to know what is actually going on.

**Senator JOHNSTON**—Chair, with your indulgence, if you were to write to the Secretary of the Joint Statutory Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund—because we have the tribunal come before us—we will investigate people acting unilaterally and detrimentally. But, as I say, the difficulty is that the tribunal finds it hard to protect your rights if it does not know of you.

**Ms Wiseman**—That is fine.

**CHAIR**—David, you are on that committee, aren't you?

**Senator JOHNSTON**—I am the chair of it.

**CHAIR**—Is that the end of your statement, Ms Wiseman?

**Ms Wiseman**—Yes.

**CHAIR**—Mr Hubbert, do you have any opening remarks?

**Mr Hubbert**—I will be brief and summarise the position we have come to, particularly in regard to policy development. We have been arguing that you need appropriate involvement structures. Inappropriate structures have been used for a wide range of government business. ATSIC in its formation had an arm that was elected from the general community in a particular area. People in the general community in an area have no authorisation and no rights to speak on country—period. It is not as though they have a little bit of a right or that they can make a little bit of a comment to you in the hallway and not be able to do it at an official meeting or in some other way under the table. They have no right to speak on traditional owner business—period. ATSIC tried to diversify its business and went into land management and a whole lot of other related issues like diversification of the business of native title rep bodies. That took them outside of their head of power and outside of their justifiable formation rules of business and what they were set up for. In the case of rep bodies, it took them outside the act of parliament which sets up their powers and responsibilities. They certainly do not have the right to establish cultural heritage consultancy businesses on the side and deal in other people's country and do things like that.

We have put forward appropriate structures at a number of forums. Sometimes statutory planning implements are needed to implement policy that has no native title or other implications for landowner rights—in fact, they are prescribed so that they cannot affect those sorts of rights—and in that case, the appropriate structure, if it has native title implications of course, is totally through the native title processes and to respect that act of parliament. No-one is suggesting otherwise. In other cases, traditional owners, who may not perceive their rights through that area but are well known as traditional owners, could come together collaboratively

to be involved in those planning instruments. But, at the end of the day, one aspect of an appropriate involvement structure is the reinforcement of traditional owner customary decision-making processes and representation and authorisation processes. That needs to be there.

I think it is argued in the paper that people with historical and contemporary connections—in other words, a person who goes onto country and hops off the bus tomorrow with a suitcase in their hand—have a right to be involved in a culturally appropriate way as citizens of this country, of the state, as taxpayers and so forth. No-one would take those rights away from them. But with historical connections and contemporary connections, they do not have any traditional owner rights.

The second thing that the paper probably does not draw as clearly as we feel it should have is the connection between the lack of the ability to exercise traditional owner rights and the continuation of Aboriginal culture. They go hand in hand. The failure of the state, as elders have advised us at several forums, to provide a way for traditional owners to continue to practise culture by exclusion from NRM, cultural heritage and a whole number of other practices means you can stand right in the middle of your country and be effectively displaced from any decision making. You cannot train young ones like those behind me. The senior women cannot take a young girl like that one down to do whatever women do when they go down to a waterhole, because you are excluded. And a young fella like that one cannot go and do what he needs to do to become a good Kooma man. Sorry, I was speaking not on your country but by way of example. Therefore, the elders have said that when the state actively excludes Indigenous people from the resources and the ability to practise culture, including access to land, natural resources and biodiversity, it has indulged in an act of cultural genocide—end of story. That is not good. That is not good policy—not good international, national, state or regional policy.

From a policy point of view, there needs to be an involvement structure that recognises and brings together traditional owner groups to be involved in those sorts of activities. The National Action Plan for Salinity and Water Quality and the Natural Heritage Trust in fact do that. In this state there are 13 NRM areas and each of them requires traditional owners to come together. This point was made earlier by evidence to the committee. As I think Les Malezer said, to do business you will come to us and ask for structures in any case. And you will, and you do, time and time again. As government, you need advice on a plan and who is going to do it. We will take that truck from the pub.

That is not good enough on traditional owner issues. You have to take the authorised man—end of story. You watched me defer in this process to authorised people to speak on particular issues. That was an unrehearsed demonstration of my place, and I am not meaning to speak out of it. We need those traditional owner NRM committees in each of the NRM areas in the state to implement your policy on the environment and your policy on Natural Heritage Trust. We are willing to participate as equal partners, but we need to be resourced like all the other partners. The regional body to implement your natural heritage actually gets consultants that come along and look at its corporate management—its financial and business practices, its HRM. What do the traditional owners in the Queensland Murray-Darling Basin get to do their business? I will show you.

This is my contribution. We literally pass the hat to be involved. That is not good enough because it is the future of these two children and their abilities to be an Aboriginal man and

Aboriginal woman and not just a black man and a black woman alienated from the rest of society that depends upon how many coins I can take out of my pocket, rather than on government policy, to give them the opportunity to continue the practice of their culture. And that is wrong.

That is the first thing we need. The second thing that we need and which comes from policy implementation is appropriate Indigenous people in the jobs to support those representational structures. If you look at many organisations—and I cannot quote from my organisation but, if I were permitted to, you would find—between someone at my low level right up to my minister not another Aboriginal man, woman, child or anything between me and that policy-making level at all. That is an indictment on the structures that we have. In other areas, you would find that we have identified positions that must be filled by Aboriginal people because it is culturally appropriate to do so. This young girl and this young boy behind me want to be sitting in an NRM decision-making position on Aboriginal issues on Kooma land when they grow up, not going cap in hand to another mission manager. We need those sorts of things supported from a policy point of view, from an effective whole-of-government employment strategy that employs not just any Aboriginal or Torres Strait Islander person in a particular job but an appropriate one. That means the decision-making processes of the traditional owner must be involved in that selection process. They must endorse that person. It may be someone off country.

When I was offered a job here I was privileged to go to the traditional owners and say: ‘Look, I’ve been offered a job. I can’t take it; do you want me to take it?’ They looked at me, they took me away for two weeks, they sat with me, they talked with me, they saw every flaw I have got—and, goodness knows, there are many—and they finally said: ‘We’d like you to have a go. We’d really like you to have a go because you’re disinterested and that’s what we need at the moment.’ Eventually it got handed over to traditional owners from here. Traditional owners are quite able to do that. We have been going through a process here. We have looked at what you might call quadruple bottom line accounting where we do look at a holistic approach to native title, rationalise that process and stop it being destructive. We do look at NRM management and cultural heritage management of the practice and fulfilment of the aspirations of Indigenous people and Aboriginal men and women to be and to operate as Aboriginal men and women, not just switch it off when they go to work every day. We need to see those sorts of issues attacked.

The second point of view in policy is the link that we draw between spiritual wellbeing and the ability to practise culture and a whole lot of sicknesses in society. A lot of our men and women see drunkenness, violence and anger as our sicknesses—sicknesses that come from the spirit when you are displaced from country and you cannot operate as an Aboriginal man or an Aboriginal woman. It is a sickness when I walk pass someone lying in the gutter who I might step over because they are drunk. I look at them with my arrogance and I look at them again to realise that that person there is probably most connected to the old people speaking from country through them. That is probably the person in most pain. That is a symptom of their pain. Give that person a chance to educate this young person here in what they know and in the connection they have, and maybe they would look a little bit different. There is a strong connection between this and welfare. We see a strong need within that suite to have people who are culturally aware and to have cultural awareness training. We have people who are very closely associated with very senior people in government who have had no cultural awareness training whatever. We have a suite of policies there. We think you need a traditional owner involvement structure in this new structure that recognises those rights, and you also need a parallel structure or

companion structure that recognises, particularly in the welfare and non-traditional owner areas, a way to involve those with historical and contemporary cultural connections.

**Mr Wharton**—To add to that, one of the major problems that we have found with ATSIC in developing the policy is that many of the people who were doing it had never lived on a community or come from a community. They never had to get out of bed at 12 or one o'clock in the morning to go and settle a dispute. They were getting paid \$80,000 or \$90,000—blackfellas as well. The only time half the blackfellas in these government jobs got off the bitumen to go to the bush was when they were taking a piss. That is the truth. These people are sitting there getting paid good money to try and write policy about us fellas when they are just as removed from our community as any one of you.

**Mr Hubbert**—My final point is that I noticed on the shared responsibility agreements, in particular the regional agreements, the idea that we had come to the stage where there was a notional pool of money—whole of government—to be invested in the betterment of Aboriginal people. I can assure you that when you go through shared responsibilities negotiation tables you do whatever you like, the community is well in advance of government with respect to these issues. When it finally comes down to breaking down the barriers between departments and investing in a non-duplicated way to address issues in a meaningful way hand-in-hand with community, it will not happen, it does not happen and it needs to happen. That is my final point.

**CHAIR**—Thank you. Dr Connolly or Mr Waters do you wish to contribute at this stage before we go to questions?

**Mr Wharton**—I want to bring one thing forward before Ron begins. Di was going to talk about welfare. What we are saying is that if you follow the same idea, we will be okay. You made a lot of suggestions—what is the alternative? That is what Di is going to address—there is a clear definition between what we do as traditional owners, what we do with historical people and what we do with the welfare programs that we know that the government has obligations to implement. Ron and Di would best be able to speak about the models that they have designed to address those welfare services programs apart from native title.

**Dr Connolly**—We came up with something through the negotiation process. I will give a quick overview of the past four years. In 1998 Ron, me and the rest of the group were not involved in social issues—our interests lie in natural resource management. We had to do something at that time, so we started forming a structure to suit communities. We went on to call it the negotiation process. I think Judy Spence's department came up with a 10-year partnership, so we adopted that process within our structure. As far as we can see, social and welfare issues should be dealt with by individual communities. Nobody else can tell a community how to operate. There are specific issues happening within communities, and only the communities can address those issues. Future leadership and governance within those communities can be obtained by sitting there and working those problems out as a negotiation structure—call it what you want—but the only way you will obtain the identified services required by those communities is by letting the communities sort it out themselves.

**CHAIR**—Could you give us examples of what you consider to be social or welfare issues?



**Dr Connolly**—It covers everything—traditional owners, health, elders, youth issues, domestic violence, economic development, housing.

**CHAIR**—So specific local community issues.

**Dr Connolly**—Yes. We discovered environmental issues came into play a lot, particularly droughts at that time. The only way that an issue can be identified is by the community at that time. So whether it is unemployment or jobs and training and so forth that is needed, under the new model—or whatever body or policy is brought into play—welfare issues must be brought back to the community.

**CHAIR**—To the local level?

**Dr Connolly**—In the roundtable in St George, or the negotiation process as we call it, we have the whole-of-government on one side and community and non-government organisations and interested parties on the other. So it covers a whole range of issues, whether social or economic. By having everyone sitting at that particular table, if there is a certain issue that all of a sudden is not the issue anymore you can move the resources around within a community to identify the needs at that specific time. It has been a workable process but unresourced. We have had two sign-offs, but it is still unresourced.

**CHAIR**—So would that be one of your recommendations, moving into the future modelling?

**Mr Wharton**—It is an example of a model that could work. If ATSIC is not the body that comes out of this discussion and if the community and the government want to address welfare issues, there is a model on the table. We are saying there should be direct negotiation with those towns and communities and there should be direct funding to them. I guess we are saying that with the partnerships and agreements—whether people want to call it mutual obligation or contractual agreements in supplying those things—there are too many tiers of government that the welfare dollar goes through from the moment it leaves Treasury to the time it gets down to the community out in the middle of the bush.

**Senator HEFFERNAN**—Is there not a weakness there though where you have strong community leadership and weak community leadership that could be an inequity in—

**Mr Wharton**—No, I believe it does not matter what sort of leadership you have in that community. If there are members in that community who are willing to change and want a better quality of life it is incumbent upon those existing state and local services to take a seat at those negotiation tables as they are set up and come to the party to assist those communities develop their plans. It is really a commitment from the Commonwealth and the state agencies to say: ‘Stop duplication of services and stop money being squandered on unrealistic projects. Listen to the community in a uniform way, negotiate with them directly and bring the resources of those communities to get a satisfactory outcome.’ I think that has worked within St George.

**Dr Connolly**—We have also found that with the different tiers that the money goes through—the Commonwealth, the state, the regionals, the subregionals and then the community organisations—by the time it gets down to the people with the needs there are no dollars left. We

are in a no-win situation. Everybody in the country is in a no-win situation because there is never enough money at the end of the day.

**Senator HEFFERNAN**—It is the same with the volunteer bushfire fighting—there is no money for the pumps and tanks anymore.

**Dr Connolly**—That is right.

**Mr Waters**—When we started the negotiating table 4½ years ago, we knew that ATSIC could not last the way that it was. That is why we started to make the community accountable for itself. We wanted the state government to work with us, which they invited us to do through the 10-year partnership. Because there were two ATSIC funded organisations in the town, one with health and one with housing, we had two representatives from those bodies in the early days, but they just kept tearing us to pieces—this is 4½ years ago—because they got their funding from the Commonwealth. Why would they want to help us? They were not thinking about the community; all they were thinking about was them bloody selves.

As soon as ATSIC started crumbling, all these blokes started coming back to the community because we had our little community formed and talking straight to the government. They started sitting up and saying, ‘All our money is gone. These blokes are now going to get all the funding.’ So they jumped in and have been trying to tear us into pieces for the last couple of years. We do not want you senators to stop at the Sugar Rays. You have to go right down to where the roots are, because those people are still sitting there and are still telling Aboriginal communities bullshit about government funding and stuff like that. You have cut the branches off the tree, but you have to keep going down. If you do it with the Federal Police, you have to chase them all the way down until you get rid of the whole lot of them, otherwise the system will not change.

**Ms Wiseman**—There does not seem to be any accountability for these people.

**Mr Waters**—And they are still getting funding.

**Ms Wiseman**—And they get away with it constantly.

**Mr Waters**—We have been negotiating with the community and the state government for the last 4½ years. We have the Goondir Health Service out there. They just came with a submission for us to sign. They have got a consultant from Townsville or somewhere. It took them six months to make this draft, and they wanted us to read it in one day and sign off on it. They were already building a \$1.7 million health clinic out there, and it is going to receive funding of \$1.5 million a year for five years. It took us four years to try and get our community together. We did it all on sixpence, and we still have no money. We had to get money to come down here today. But after six months these blokes have a \$1.7 million medical centre—and not one of the people in it are qualified—and they are getting \$1.5 million a year for five years to run it.

**Senator HEFFERNAN**—What do you mean they are not qualified?

**Dr Connolly**—They are not skilled people. We mean that they advertise instead of skilling people up and gaining—

**Mr Wharton**—It is another cow for them to milk. They milk one cow, that cow goes dry, then they find another cow and milk that.

**Senator HEFFERNAN**—Is there a \$1.7 million medical centre there? Is there a doctor and a nurse?

**CHAIR**—This is another organisation that is getting funding, so we should be careful. This is public evidence. You have a perfect right to make statements but be aware of the terms in which you do it.

**Senator HEFFERNAN**—Is it a medical whatever that does not have expert medical staff?

**Dr Connolly**—It has a medical doctor.

**Mr Wharton**—They get the local doctor in—

**Senator CROSSIN**—Was it funded through ATSIC?

**Mr Wharton**—No, it was funded through Commonwealth health.

**Dr Connolly**—It was through OATSIA.

**Mr Wharton**—In general we are saying that a lot of programs are going on, and it seems that the mob of people who have just finished being in charge of an organisation and have run it into the ground, got it closed, lost all the funding and completely gutted it are jumping on the next cow—

**Senator HEFFERNAN**—And I presume that the consultant has now taken that lot of paper to some other community and he is getting another consultancy fee from somewhere else.

**Mr Wharton**—But all these recommendations and things are being assessed by a public servant in senior management. They should do background checks on these people to ensure that they have some integrity or that they are able to direct the money to people who are going to utilise it properly and do not have previous experience of running other organisations into the ground.

**CHAIR**—It goes back to your previous statement about accountability. It is an example of the lack of accountability—

**Mr Wharton**—But accountability for the public servant who is making the recommendation for that money to go out to those people.

**CHAIR**—Absolutely, in terms of the appropriate due prudence in making that decision.

**Mr Wharton**—If that public servant has a history of making bad decisions like that, why is that person still in that position making the decisions? That is what we were stuck with with ATSIC, the NAC and the DAA.

**CHAIR**—Yes, and you made your point earlier.

**Senator HEFFERNAN**—This question might be slightly out of context but will help me in another area. Were any of you on the St George community reference group for the Lower Balonne?

**Mr Waters**—I was.

**Senator HEFFERNAN**—I consider the Lower Balonne water plan to be a national disgrace. From what I can see, the environmental plan for the Lower Balonne is first in, best dressed and bugger the rest. Did you have the opportunity to object to any of what was proposed for that, and did you object, or did they just tell you to bugger off?

**Mr Waters**—No. I have been on the Lower Balonne for the last three years. I suppose it was a learning process for everybody. We did not know what cotton was doing to our communities, so we all had to get involved—Indigenous people too. We got involved not only because the government threatened to take water off the farmers but because, with the structure out there, water and cotton give Aboriginal people a living. If we do not have those sorts of structures—

**Senator HEFFERNAN**—Would you balance that in your thinking—and you say this is what your expertise is in—with the long-term environmental consequences of what is going on out there? As you know, they put 200,000 megalitres in the main storage at Cubbie Station from a flood event last January and the people downstream got virtually nothing.

**Mr Wharton**—I will just take you up on that, because this is dear to my heart too. As you know, we have 140,000 acres on the Nebine River—some 72 kilometres of river.

**Senator HEFFERNAN**—I know it well.

**Mr Wharton**—Is someone going to tell me that I am not allowed to put 5,000 acres of cotton on my property, which is going to earn my people \$7 million a year? When the question came, no-one bothered about that six or seven generations ago when they mucked up my country. Now we are starting to get some of our land back and we want to make a clear break from it. If we can put in 5,000 or 6,000 acres of cotton, and that is going to give my tribe \$6 million a year in income to set up school programs and give us money that ATSIC, the DAA or the NIC could not give us, are we supposed to be poor blackfellas and the world's conservationists?

**Senator HEFFERNAN**—If you do that in a manner that makes the river system sustainable. What has happened in the Lower Balonne is not sustainable. It is literally first in, best dressed with the water harvest there. Don't you think that at Murra Murra, or wherever you want to do this, the tide of your thinking ought to be that you want to give wealth to your community, which I think is great, but that you ought to do it in a way that does not destroy the whole—

**Mr Wharton**—People came to this country with nothing. They were given vast portions of land. Those families that were given that money are the old white families now—the Holmes a Courts. Those fellas got the old money. Six generations down, their kids are sitting on billions of dollars. For my kids, we have had only the last 10 years to get land back. I want our kids to have an opportunity in six generations to not be called bludgers, to be able to generate enough money

to buy back and run their own businesses, pay their own fees, buy a bloody nice car if they want to and go to the dentist when they want to.

**Senator HEFFERNAN**—With respect, Murra Murra was capable of keeping about two families.

**Mr Wharton**—Murra Murra is capable of doing a lot more. But the way that the Goodwins wanted to run it—

**Senator HEFFERNAN**—Don't you think it would be better if someone actually had the lease of Murra Murra and then got a benefit and the community got the lease?

**Mr Wharton**—For who? Am I supposed to be sitting in town on the dole?

**Senator HEFFERNAN**—No. The difficulty is that—

**CHAIR**—Senator, I think that this particular issue relates to the environment. Whilst that is absolutely important, in the limited time we have I would like to draw back on this particular issue. We can have one more response.

**Mr Waters**—One thing that came out of the talks is that everyone agreed that there have to be environmental flows, that the environment has to be looked after. That has already happened. That was not the choice of the government; that was the choice of the farmers. They let the environmental flow go. They did not have too.

**Senator HEFFERNAN**—Can I just point out that the Culgoa used to deliver 26 per cent of its natural flow to Burke. It now delivers four per cent. That is not sustainable. All that country down over the border is buggered; it simply does not get the water anymore. The water that went to the Narran Lakes in that event did not come down the river; it was local runoff.

**Mr Waters**—So have you been to Cubbie?

**Senator HEFFERNAN**—Bloody oath I've been to Cubbie!

**Mr Waters**—Have you seen the natural water pass through that?

**Senator HEFFERNAN**—I have seen it all, mate, and I have it all. I know exactly where Leith Boully fits in and all the rest of it.

**CHAIR**—I would like to finalise the discussion on the environment if I could because, while it is critical to all of us, we have limited time to look at the submission you have made and at your concerns about governance.

**Mr Wharton**—Just on that, one point is that it has been only 10 years since our people have been in a position to get economic advancement from our land. Why should this be jeopardised after the last seven generations of non-Indigenous control of land? When we are now in a position to break the welfare cycle in many cases, why are we the ones who are expected to be

the world's environmental people? I think it is a contradiction. It is a very real contradiction. It is something that any new body—any new body you come up with—has to think very clearly about. What are we? Are we the poor buggers who have to be like the blackfella standing on the rock holding a spear—is that our existence? Or do we have a real claim and is there room in Australia for equality so that we can utilise the very resources that we have to try to get away from the welfare systems that are keeping us cap in hand?

**Senator HEFFERNAN**—Of course I agree. I would like to take that up with you later and explain that.

**CHAIR**—Yes, later! Dr Connolly?

**Dr Connolly**—We have heard that the Queensland Murray-Darling Committee have been allocated \$900,000, even though we have two seats on that committee. This is going back to the question of water for cultural purposes. I heard a person from the ILC speaking earlier on. It all relates to that. If we obtain a property, we will never get water rights, because there is no water act for Aboriginal people in Queensland. One of the things that we all stress is that, if a new body is formed, there are a lot of issues to be taken into account.

**CHAIR**—Unfinished business.

**Dr Connolly**—Yes.

**Senator HEFFERNAN**—That is why people are taking some away from others.

**Ms Wiseman**—On that point, under the 10-year partnership—I think it is strategy 1.1 under the state level agreement—it says that the government was looking at amending legislation, where necessary, to bring it in line with contemporary Aboriginal and Torres Strait Islander interests. That is a pretty big, broad statement. It is huge. If that is going to happen—and it probably will not happen—and if a new body is going to be formed, and we are saying a lot of the cultural and welfare aspects should be taken back to communities, in which direction could you see that body developing so that it works in with the traditional owners on country?

**CHAIR**—I missed the last bit of that, Ms Wiseman, I do apologise.

**Mr Waters**—I guess what we are saying in summary is that, whatever body you come up with—

**CHAIR**—Whatever structure: it is probably going to be a range of relevant structures.

**Mr Waters**—the welfare issues have to be dealt with separately. The native title process has to be dealt with separately. The roles of the new organisation would basically be that representative structure—a voice, an authorised body for government to negotiate with. I am saying in all fairness that the Commonwealth has done this for the past 30 years with the Northern Territory land rights act. Why hasn't the Commonwealth seen fit to apply the same structures and the same derivative operations that exist in the Territory? Ever since the inception of ATSIC, the traditional owners' representation structures that exist in both the Northern Land

Council and the Central Land Council were adopted by the Commonwealth and allowed to provide representatives for the ATSIC process. In Queensland, we were not.

The Territory was allowed to do that. The way that the Northern Land Council and the Central Land Council work is on the basis of traditional law, where each one of the representatives is elected within each of their clan groups, which is also one of those TOs. They provide representation. We are saying nothing different, and the Commonwealth did not object to the existence of that in the Territory. Why can't we apply it in the same way to traditional owners around the country?

**Senator HEFFERNAN**—Yes.

**CHAIR**—Except on the environment, Senator!

**Senator HEFFERNAN**—Right. Can I take one issue, and we will have a good yarn over the next week or two? Surely for those two young nippers of yours who are running around here today—and I think the same of mine as I think you do of yours—the most important thing at this moment is to get them a good education.

**Mr Wharton**—Yes, and that is what they are doing here today.

**Senator HEFFERNAN**—So then they have a choice about whether they want to be a doctor, a lawyer, a jackaroo or a cook—

**Mr Wharton**—Or a senator or a prime minister.

**Senator HEFFERNAN**—Yes, or anything. Mate, if I can be a senator, anyone can be a bloody senator.

**Mr Wharton**—Not really. It takes a lot of skill and it takes a lot of lobbying, a lot of numbers and a lot of votes.

**Senator HEFFERNAN**—Believe me! So we have got to have a system that gives those 250 kids, who we were told this morning sniff petrol somewhere in and around Brisbane, an education so they get a choice in life.

**Mr Wharton**—It is up to your new body to address those welfare issues.

**Senator CROSSIN**—ATSIC was never responsible for education.

**Mr Wharton**—Exactly, that is what we are saying.

**Senator HEFFERNAN**—ATSIC did not work.

**Mr Wharton**—We take on what you are saying.

**Senator CROSSIN**—There is no evidence that ATSIC did not work.

**Mr Wharton**—For whatever new body you create or make recommendations about, we are saying, ‘Well and good, if education is one of those issues we are saying: deal directly with those communities and they will be able to do it.’ Of course, ATSIC did not have control of it, but the existing structure that does have carriage for education has put us 20 years behind.

**Senator CROSSIN**—That is the federal government.

**Mr Wharton**—Exactly. What we are saying to the federal government is that, if they want to take the responsibility of that away from the agency that has education at the moment and give it to a new structure so that that new structure can go out to St George and deal with the community and say, ‘What is the best way to deal with education in your community? You tell us,’ we will make a partnership agreement and bring the state in as well and make sure the resource is there.

**Senator CROSSIN**—They are not about to do that, though.

**Mr Wharton**—They will not do it but they have always got money to come back later and say, ‘We’ve still got a problem. Can we have another go at it?’

**Senator HEFFERNAN**—The long-term job prospects in Mungindi do not equate to the local community being on a CDEP program and learning how to repair the local house. They have to get out of town to a bigger place with bigger prospects.

**Mr Wharton**—What are the long-term prospects of someone living in Marrickville who is sitting down on the corner and begging for 20 cents in change?

**Senator HEFFERNAN**—Can I tell you that that applies to whitefellas in those communities, too?

**Mr Wharton**—I am talking about a whitefella. That is what I am saying. I had never seen people begging on corners until I went to Sydney and saw white people begging, and it made me feel sick. I have never seen a blackfella behave like that. I have seen people go up and ask for a loan or something, but not sitting on a bloody corner with a handkerchief out in front begging for change. The only place I had seen that was in Mexico City in 1990, but I never thought I would see it in Pitt Street in Sydney.

**Senator HEFFERNAN**—Did you sell that place you had west of Cunnamulla?

**Mr Wharton**—No.

**Senator HEFFERNAN**—So you have still got it?

**Mr Wharton**—There are two out there. The other one is a perfect example of where ATSIC failed.

**Senator HEFFERNAN**—I know. That is why I raised it.



**Mr Wharton**—And you are right. But the people who were there on the regional council covered that. The regional manager and the state manager processed it. When I was sitting on the regional council and said, ‘You can’t do this. There is no way you can do this,’ and ‘The money can’t go here,’ or ‘It can’t go there,’ that state manager and that regional manager got up and said, ‘We are doing it,’ and they voted for it and they did it. My own uncle was managing it. They pissed it up against the wall. They sold 14,000 head of sheep. When I wanted him charged with fraud and dragged through the courts to be made accountable to the rest of the community, that regional manager and that state manager and the rest of the regional councillors would not do a bloody thing about it. And you are talking about those 250 kids who need to get away from petrol? It comes back to accountability. It comes back to those kids having faith in their parents. When you see your uncle or auntie thieving, you are going to thieve. When you let people like that dispose of a \$1.4 million asset with the goodwill of the regional manager and of the state manager who processed it—who are both white dead wood, sitting there because they cannot get a job anywhere else—they should be charged with fraud.

**Senator HEFFERNAN**—I just want to let you know that I knew what was going on out there.

**Mr Wharton**—We tried to bring it to the notice of the authorities. When we wanted charges laid, no-one wanted to do it. It is the same thing that has happened with Ray Robinson. It is the same thing that has happened with every other bloody case around here. Do you know why you have not got community in here? Because when the community came back to you fellas, the government, to pull ATSIC into line, no-one wanted to do anything. That is why I keep saying it is not our problem; it is your problem.

**CHAIR**—As there are no more questions, would people like to make a final statement?

**Mr Waters**—I think the only way the communities are going to progress in the future is to form partnerships with local government and local businesspeople. We form a group so that federal government and state government talk straight to that community. That is the only way you will achieve anything in communities. If you have too many layers of government—

**Senator HEFFERNAN**—Top down.

**Mr Waters**—you just lose it along the way. I think that is the only way. Murri people cannot do it on their own. You have to form partnerships so that you use the expertise of the industry that is there, whether it be cotton, sheep, wheat or water. We have to deal with water. We have to deal with the environment. Bill is getting up Cubbie a bit here, but Cubbie is looking after 1,200 people. It is keeping 1,200 people in the town of Dirranbandi alive. If a couple of cattle do not get fat on four or five properties just down below Cubbie, who do you support? Do you support a community? Something has to give. You have to give a little bit to the environment but you have to look after the community first. If you do not have a community, who is going to look after sheep and cattle?

**CHAIR**—Thank you Mr Waters. Mr Hubbert, do you have any final comments to make?

**Mr Hubbert**—Chair, we have some additional notes people have been using that we would like to submit later on. We will just take the personal references out of them.

**CHAIR**—That will be fine. Send them to us and we will accept them.

**Mr Hubbert**—My final statement to the senators is that traditional owner-managers, land managers, are faced with the same complex decisions that all other land managers are and they are difficult decisions. I had the pleasure of working with a man from down here—I know he would allow me to say this—a Koenpul man. That group decided in relation to an endangered species that the greatest Koenpul hunter, looked back upon by future generations, would be someone who had never taken a dugong. So they are management decisions. I think they are complex decisions for our people and our land managers, as they are for the broader society. We have to recognise that.

**CHAIR**—Thank you, Mr Hubbert. Mr Wharton, a final comment?

**Mr Wharton**—My final comment is that (a) we agree that there has got to be a national voice, (b) welfare services are not to be handled by that—it cannot be piggybacked on all the time—and (c) the native title process has to be taken out to another body. That new body, whatever you create, has to be a dissection of rights and responsibilities, as each area of program or service defines. I want to remind the committee that 1967 gave the Commonwealth a mutual obligation. It gave the Commonwealth—it does not matter whether it is the Labor Party or the coalition government that is in power at the moment—the obligation to legislate in the interests of Aboriginal Australia. Whatever body comes back, that is the mutual obligation.

If anything should go back to the Prime Minister and the cabinet it is a reminder of the Commonwealth's mutual obligation to us as traditional owners and native title holders. That mutual obligation starts with fulfilling the obligation the Commonwealth was given in 1967 after the referendum: to legislate for the benefit of Indigenous Australia. The second mutual obligation is to recognise the native title rights of each traditional owner. That is all we ask. If he wants to talk about mutual obligation, we ask him to start there, with the differentiation of our rights and their obligations to us and each one of the 600 traditional owners around the country. We thank you for your time.

**CHAIR**—Thank you, Mr Wharton, for sharing your knowledge with us. You were talking about the travel involved. Do you realise that travel expenses can be paid?

**Mr Wharton**—No, we did not realise that.

**CHAIR**—I encourage you to talk with the secretariat, because witnesses and their travel expenses are part of our obligations.

**Mr Wharton**—Maybe if that had been known out there in the community you would have had a lot more old people in here and a lot more people making submissions—rather than the people who are employed by agencies to come here and support their empires.

**CHAIR**—Thank you very much.

**Senator HEFFERNAN**—Can I just say that mother nature did not design the river system to finish at the Queensland border.

**CHAIR**—Everything else did, Senator!

**Committee adjourned at 4.46 p.m.**