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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON ABORIGINAL AND TORRES
STRAIT ISLANDER AFFAIRS

Reference: Capacity building in Indigenous communities

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS
Monday, 22 March 2004

Members: Mr Wakelin (*Chair*), Mr Cobb, Mrs Draper, Mr Haase, Ms Hoare, Dr Lawrence, Mr Lloyd, Mr Melham, Mr Snowdon and Mr Tollner.

Members in attendance: Mr Cobb, Mr Haase, Ms Hoare, Dr Lawrence, Mr Snowdon, Mr Tollner and Mr Wakelin

Terms of reference for the inquiry:

To inquire into and report on:

Strategies to assist Aboriginals and Torres Strait Islanders better manage the delivery of services within their communities. In particular, the committee will consider building the capacities of:

- (a) community members to better support families, community organisations and representative councils so as to deliver the best outcomes for individuals, families and communities;
- (b) Indigenous organisations to better deliver and influence the delivery of services in the most effective, efficient and accountable way; and
- (c) government agencies so that policy direction and management structures will improve individual and community outcomes for Indigenous people.

WITNESSES

**CALMA, Mr Tom, Branch Manager, Community Development and Education Branch,
Aboriginal and Torres Strait Islander Services..... 1437**

**QUARTERMAINE, Mr Lionel, Acting Chairman, Aboriginal and Torres Strait Islander
Commission..... 1437**

**SCHMIDER, Ms Joann, Team Leader, Capacity Building and Integrated Development,
Aboriginal and Torres Strait Islander Commission 1437**

THOMPSON, Mrs Patricia, Senior Adviser, Aboriginal and Torres Strait Islander Commission 1437

Committee met at 10.24 a.m.

CALMA, Mr Tom, Branch Manager, Community Development and Education Branch, Aboriginal and Torres Strait Islander Services

QUARTERMAINE, Mr Lionel, Acting Chairman, Aboriginal and Torres Strait Islander Commission

SCHMIDER, Ms Joann, Team Leader, Capacity Building and Integrated Development, Aboriginal and Torres Strait Islander Commission

THOMPSON, Mrs Patricia, Senior Adviser, Aboriginal and Torres Strait Islander Commission

CHAIR—I declare open the Aboriginal and Torres Strait Islander affairs committee inquiry into capacity building in Indigenous communities. I welcome the representatives of the Aboriginal and Torres Strait Islander Commission and the representative from the Aboriginal and Torres Strait Islander Services. These are proceedings of the parliament. Therefore, they warrant that regard. Would you like to make a short opening statement, after which we will get into a discussion about the issues that are of concern to you?

Mr Quartermaine—First of all, I would like to apologise for Terry Whitby. He was supposed to come, but he has other issues on his mind at this time.

CHAIR—Let us work through this. We had a brief discussion on the day of the roundtable. You indicated your concern around that table that day with people that had been working on these issues for many decades about their approaches. We needed to hear that. You were generous enough to offer to give us your view on that. So over to you.

Mr Quartermaine—Thank you, and thank you for your time. When I was here last time, I looked at the roundtable and I must admit I saw the government and non-government agencies giving some kind of advice or direction on capacity building. That worries me because, if we look at capacity building and we look at the state of Indigenous communities in Indigenous Australia now, they are the same agencies—I suppose you can put ATSIC in there as well—that have failed Aboriginal people. If you look at the government's productivity report, that clearly states the state of Indigenous affairs in this country. It worries me that those same agencies are talking about capacity building when they have failed in a number of areas to deliver services and deliver capacity out in the community. I do not think anyone in Australia can say that those agencies have delivered any particular capacity to the community. If we look at capacity building, it is a shared responsibility. If we look at capacity building, in order to have the capacity to make decisions, your health and wellbeing, mentally and physically, must be equal to that of other people in Australia. If we can sit at roundtables and say, 'That is the case in today's society,' we have failed.

At that roundtable, it worried me that there were only maybe one or two Aboriginal people. If you are looking at capacity building, you need to ask the people themselves exactly what they want. We have a long history of trying to say what is best for the other person. If we are going to go down that track, we must look at shared responsibility. The onus is on all of us to ensure that

those people have the capacity to make decisions for themselves and are not dictated to. I will give you an example. In Queensland, we have the alcohol management strategy in a number of communities. It is not about capacity building; it is about dictatorship. The Queensland government has failed to negotiate on some level with those communities. All Aboriginal people in those communities want alcohol management. They want it, like all of us. However, if the capacity is not there to negotiate or allow those people to negotiate, that capacity has failed.

If we as agencies, like ATSIC or even state or federal government agencies, go to communities and say, 'This is what's best for you,' that is dictatorship. Capacity is about giving the skills and services to those people to ensure that they can make those decisions themselves. To me, from that roundtable, I do not think anyone can actually say that Aboriginal people agree with those agencies. They are the same agencies, whether it is government or non-government, that Aboriginal people have problems with in delivering services out into those communities. The capacity is to ensure that those communities are able to have their say.

I have yet to see some kind of consultation with Aboriginal people at any particular level on what they want. If we are looking at how we can get the best from those communities, we need to look at the capacity of the family as well, because sometimes we focus on the organisation but not the family. So how do we ensure that capacity goes out to those families? How do we ensure an engagement, a shared responsibility, at all levels? If we are going to take away shared responsibilities, we must all have the responsibility to ensure that everyone has an equal say.

CHAIR—Thank you very much. That is a very solid foundation on which to base the future and progress that we all know needs to be made. Does anyone else want to make any further comments? Tom, I presume you are here as an observer.

Mr Calma—Yes, just as a support if Commissioner Quartermaine needs it.

CHAIR—You have raised the key questions. It is no intention of mine to take up undue time. We will share it amongst all of us. With regard to consultation or 'what they want'—just to pick up one phrase—can you give us an indication of what that might do? As you rightly identify, for decades now we have had the reports, the committees and the discussion and the agencies making decisions on behalf of others. One of the key areas is consultation or 'what they want'—at we want and what Aboriginal people want. You gave a wonderful example. We are aware, of course, of the alcohol management program. When we were there, there was discussion about it. There were exactly the kind of comments flowing backwards and forwards that you have described. Can you give us just two or three dot points on the ideal consultative mechanism? How do you actually reach the core decisions or the decisions on shared responsibility? How do we do that?

Mr Quartermaine—To one extent, you have 35 regional councils in Australia. Have they been utilised for what they should be doing in the first place? Those 12 councils on each regional council are elected from the community. This may seem like I am pushing ATSIC to you. There are some good councils and some good regional councils happening around the place. What mechanism are they there for? They are there to help deliver services and ensure that the program is at the community. So that is one mechanism that can be used. Through that mechanism of regional councils, you can ensure that those people out in the community are sorted out.

Those 12 councils on each regional council are elected from the community. This may seem like I am pushing ATSIC to you. There are some good councils and some good regional councils happening around the place. What mechanism are they there for? They are there to help deliver services and ensure that the program is in the community. So that is one mechanism that can be used. Through that mechanism of regional councils, you can ensure that those people out in the community are sorted out. You can also quite easily look at community meetings to ensure that the people's voice is heard. Too many times we go to organisations. Some organisations, not all, are there for themselves, their own vested interest. They look after their own wellbeing. So you have to look at a number of ways of doing it.

CHAIR—I want to talk about regional plans. We can talk about it for a long time. What is your view of the regional plan process? There is an expectation in the regulations or guidelines of the need to have regional plans linked to the funding and all that sort of thing. What is your opinion of the success of the regional plans? I will have a subsequent question to that, I guess.

Mr Quartermaine—It depends on the capacity and on what region. Take Murdi Paaki, for instance, in New South Wales: they have the capacity to develop good plans. But the plan is only as good as the investment in the plan. It is only as good as the state government or the federal government invest in their programs or in the plan, because otherwise it fails. You then have the regional council in WA. They have a capacity to negotiate with the WA government at a different level again. You have some regional councils and their capacity to develop a plan. They may have the knowledge or skills to negotiate with other agencies. Different regional councils have different levels.

CHAIR—If there was one thing we could do to improve that regional planning process, particularly in the weaker areas—if I can put it that way—where, depending on capacity, regional planning is weaker or not as strong, what would it be?

Mr Quartermaine—There are a number of ways of doing it. I would ensure that each regional council knows the ATSIC Act. That is where the regional councils can have the role of monitoring and evaluating programs; it is through the act. They then know what their responsibilities are. We need to give those regional councils skills regarding their role, because some people have been elected to a regional council without any knowledge of what their role is, me included. When I got elected as commissioner, there was no workshop or—there is a word I am looking for.

CHAIR—I think it is a fair comment. I could say the same about myself, in a sense.

Mr Quartermaine—Not training, no—

CHAIR—Induction?

Mr Quartermaine—Induction. There was no induction on what our role is. I have got here mainly because of good luck—

Mr JOHN COBB—And capacity.

Mr Quartermaine—Well, not capacity but also the relationship I have with a number of ministers and shadow ministers in the government. That is the only reason. The regional council should know their responsibility; that is where we should be focusing.

CHAIR—So an investment by whom, what and how in understanding this act here?

Mr Quartermaine—Yes. The only time we get to read that act is when we want to ensure there is accountability, where it says, ‘Under section such and such this is your role and responsibility.’

CHAIR—But not in a proactive way?

Mr Quartermaine—That is right.

Mr JOHN COBB—When you say leadership training, you mean specific training for the job?

CHAIR—Just basic—

Mr Quartermaine—Basic training on that act.

CHAIR—And therefore the act is, in your opinion, strong enough in itself if it were used or useful enough?

Mr Quartermaine—Everything we need to do is in the act. The only thing you need to add in there—

Ms HOARE—That training is to be provided by ATSIC or ATSI?

Mr Quartermaine—We can do it, yes.

Ms HOARE—Do you need extra funding and extra resources from the government?

Mr Quartermaine—Extra time. I suppose we just need to have time. I do not think the resources or the funding would be the issue. I think it is ensuring that it happens.

CHAIR—And an inclination to do it and knowing it is important to do it.

Mr JOHN COBB—Are you doing it now?

Mr Quartermaine—A couple of regional councils are doing it. I am trying to get other regional councils to do it. Every year in Cairns we do about two days workshop on the act.

Ms HOARE—Commissioner, in your statement and the discussions following the roundtable, you focused on the regional council structure as one mechanism for the consultative processes. At the moment, ATSIC is or should be the ultimate consultative body for the government. Does there need to be one more commitment from government to consult with ATSIC as the ultimate consultative body for Aboriginal and Torres Strait Islander affairs? Should there be more

interaction between government and agencies with the regional councils? Would their role need to be expanded as a consultative body or should there be a stronger three-way structure of regional councils, ATSIC and the government? I am just trying to work this consultative process through. Should regional councils' authority and capacity be expanded or should there be stronger linkages between the three developed?

Mr Quartermaine—There should be stronger links. I do not believe that the government should rely on ATSIC for sole advice. I believe that there are other people in the community who have the skills as well. To say the government and opposition would come to ATSIC all the time for answers would be like ATSIC becoming a dictator. It is not about that. It is about using a number of ways to get the best output for the community. All I am saying is that the regional councils' plan is there. There are also other areas about consultation. But the consultation must be open and transparent. Mick Dodson is another guy who can actually give good advice. Noel Pearson is another, as is Peter Yu. So there are a number of other people who can do the same thing. But we need a body to actually drive that. If there is no body driving that, that capacity breaks down. Who takes the responsibility on the capacity building?

Ms HOARE—Government or Indigenous leaders or a combination?

Mr Quartermaine—When it works or when it fails, it is deemed to be put at the Aboriginal leadership. If it works, then a lot of agencies and non-government agencies take the responsibility. If we are looking at how we can best give service to the people or best give capacity to the people, we must find exactly what the people want. I cannot sit here and say, 'I know everything; this is the way to go.' The only way I know is by talking to the people and actually getting an idea. You are talking about 500 different clans and seven states and two territories. They are all going to come up with a different way. But the idea about capacity is to have something broad that allows the Aboriginal person to take something out of it for their own wellbeing.

Capacity building only comes about through education, so the education services out to the community must be of top quality. The health of the Indigenous people mentally and physically is also part of capacity building. Better housing, better infrastructure, sewerage and running water all play a part in the capacity that allows a person to make a decision. If that person is oppressed for a lack of services, how can that person make a decision? What they are doing is thinking of the negatives of life. They will be saying the government has failed this. They are not going to negotiate with the government because they are going to blame the government. When anything goes wrong in the Aboriginal community, the first one they are going to blame is the government. The basics of capacity building are being able to have better education, better health services, running water and sealed roads. That becomes the capacity of shared responsibility. If there is shared responsibility, that one platform must go right across the board. You cannot have shared responsibility just basically saying, 'Well, we'll have shared responsibility for Aboriginal people and this is your responsibility.' It has got to apply to every sector of Australia. The same rule must apply.

Mr HAASE—This is a good opportunity to get an alternative to that roundtable. You keep falling back to this question of better consultation. My concern is that those who we need to consult with the most at this stage have the least capacity to be involved in that consultative process. It strikes me, as you have explained in criticism perhaps of the roundtable, that those

that have been representing the groups least capable of involving themselves in the consultative process seem to have hijacked the intent of those groups least capable of consulting when delivering their requirements to government agencies. I am wondering if you have thought about that. Can you give us some indication of a solution that makes the greatest majority of people with the least capacity to express or consult able to be honestly and genuinely represented by those who are elected? How do we address the problems we have seen in the past of elected representatives appearing at least to be self-serving rather than addressing the real requirements of those least capable of expressing their own requirements?

Mr Quartermaine—I can tell you off the record.

Mr HAASE—It is a big one, I know.

Mr Quartermaine—The people who always go to roundtables are the very same people that Aboriginal people have problems with. I will give you an example at Mannum Mannum in North Queensland. It is an Aboriginal reserve. There are two clans arguing about native title. They both signed an agreement to forgo native title to build infrastructure there. One person who has a self-interest has now put the spanner in the works so that the infrastructure at Mannum Mannum has come to a standstill. There should be some way of dealing with those people's self-serving interest. How do we get rid of them? The community should have the capacity or the skills to deal with it. At this moment, they do not have the capacity, skills or knowledge to deal with those self-serving, self-interested people. They would like to get rid of people with self-interest but they cannot. If we could come up with a way to deal with it, it would be good.

Mr HAASE—Do we need shorter terms? Do we need more reporting of individuals? Do we need individuals to be reporting back to their communities that elected them and getting a report card, if you like, on performance?

Mr Quartermaine—I think everyone should be assessed on outcomes. If there is no outcome, they should be excluded.

Mr HAASE—What is the election period for ATSIC representatives?

Mr Quartermaine—Three years. I would love to have the power or the authority to actually suspend commissioners myself. At this moment, everything rests with parliament. The commission does not have the capacity to deal with their own. We cannot suspend or sack.

Mr JOHN COBB—You cannot even vote them off?

Mr Quartermaine—A vote of no confidence is useless.

Mr JOHN COBB—You cannot suspend them?

Mr Quartermaine—We cannot suspend, no.

CHAIR—Is that what you were referring to earlier when you said the only thing you need to add to the act was that sort of thing?

Mr Quartermaine—Yes. I will give you an example. If we were all commissioners here now, you could put a vote of no confidence in me, but it would not be worth the paper it was written on.

CHAIR—Whereas in the parliament it would be automatic?

Mr Quartermaine—Well, even parliament has to go through 35 days and a whole range of stuff to actually do it.

CHAIR—I stand corrected; that is right. But it would have weight?

Mr Quartermaine—It would have weight. But the capacity for the commission to deal with their own is nil.

CHAIR—Thank you. I did not know that.

Mr Quartermaine—We cannot suspend, we cannot sack, we cannot recommend. We cannot do anything.

Mr HAASE—How would you regulate such a power if you had it? You said some situations are becoming dictatorships. It would be a scary position.

Mr Quartermaine—It would be like a Senate estimates hearing, like here. If I were to recommend someone to get suspended, I would have to sit out a Senate estimates hearing like this to actually justify why it was going to happen. I do not think I should have the power alone. There should be a process.

Mr HAASE—If that were the case and the commissioners elected knew that they were elected on that basis, do you think there would be better personal performance?

Mr Quartermaine—Yes. I believe the separation of powers and good governance will open the door for quality, not quantity, leadership to come to the forefront.

Mr HAASE—I know, and I am sure you know, of situations where those that suffer the most in communities have scant understanding of the complexities of government, democracy and the Westminster system, if you like. They have a random understanding of custom and tribal law and punishment. Do you think that there ought to be more cultural law associated with the process of administration of communities, if you like?

Mr Quartermaine—Yes.

Mr HAASE—Do you perhaps consider that it might be necessary to have varying styles of administration depending on the degree of association or conversion to Western culture?

Mr Quartermaine—Certainly. You need to take into consideration remoteness. Up in Arnhem Land and around the Northern Territory and South Australia through the desert, even in Cape York, it must have some kind of flexibility so it allows the elders to take more of a direction as well. So there should be more flexibility.

Mr HAASE—Within the very formal ATSIC-ATSIS system today, my understanding is that there is almost nil opportunity for customary law to influence outcomes. It may influence those who are elected. Could you tell us about that. How much involvement is there in the election of representatives on the basis of customary law?

Mr Quartermaine—Certainly if you take remoteness around the Kimberleys and Northern Territory areas such as Alice Springs, it has a large part to play. Around the urban settings, you still have family connection for the election. So it varies there as well.

Mr HAASE—You mentioned a player that you felt we could consult with comfortably, which is Peter Yu. I know Peter Yu was elected. It struck me that he was very much an outsider at one stage yet the west Kimberley people got behind him very strongly. I think that was a great surprise to many people who were involved in customary law and senior people within communities. I cite that as an example that perhaps confounds what we think might happen.

Mr Quartermaine—Well, we have a commissioner from the Western Desert, Darren Farmer. He is connected through his tribal clan. He got elected on that basis. He reported back to his communities, to his elders. He does nothing without endorsement from his community. So it happens. It happens at different levels.

Mr HAASE—I have had a fair go. Thanks, Chair.

CHAIR—If you think of something, we will try to come back. I will quote from the ATSIC review on the relationship between ATSIC's elected arm and its administrative arm. It is recommendation No. 66, which you would be aware of. It states:

The chair and the deputy chair of the national body and the chair of the regional councils may be removed by a no-confidence vote in them carried by a statutory majority of their representative elected bodies.

That is one. The next one states:

The ATSIC act should be amended to provide that where a substantial majority of Aboriginal and Torres Strait Islander people living in an ATSIC region or ward agree to a system for selecting—

It picks up a subsequent point—

regional councils that is different from the system set out in the ATSIC Act, the Minister may approve such a decision for determining the regional council for that region or ward.

Does that pick it up, almost pick it up or is it additional to it?

Mr Quartermaine—It should be through the tribunal act.

CHAIR—Thank you. That is the provider?

Mr Quartermaine—The provider, yes.

CHAIR—Thanks.

Mr Quartermaine—I would not want the sole power to sack commissioners. I do not think the chair should have the sole responsibility to dismiss commissioners. Votes of no confidence could happen and you could have a different leader every day.

CHAIR—Thank you.

Dr LAWRENCE—One thing that I think often leads to a misunderstanding—I have noticed it today—is that you say ‘participation and decision making’ and the members of this committee say ‘consultation’. They are two different things. Consultation means asking opinions and getting feedback. Decision making and participation means in partnership—Indigenous people actually in there doing it. When you are talking about a greater role in decision making and making decisions for themselves, do you have any models in your mind that are working well at the community level? Obviously that requires partnership. It would be where Indigenous people are actually in there doing it?

Mr Quartermaine—Murdi Paaki would be a good example where it is not delivered by one person but a number of community members. The chairperson is Sam Jeffries from WA. There is also another one in South Australia at another level. So there are different levels around the community. In the Northern Territory, Peter Toyne, the Attorney-General, just agreed with the elected arm of ATSIC to meet every quarter and to actually start developing some broad based policies. So that is about participation. What you are saying is correct: we need to have a large input into the service delivery and the policy making. As it stands now, you can consult with me, but you may not need to take on what I am saying. That is a failure.

CHAIR—Thank you very much.

Dr LAWRENCE—Just following up on that, in our overall democracy, we pretty much hand over responsibility to MPs and senior bureaucrats. A lot of people call ours a thin democracy; in other words, you vote for someone and, if you are not pleased with them or their party, you kick them out the next time. In theory, that is how it works anyway. But it struck me in my time in Western Australia and working with Indigenous communities, as I have had the privilege of doing over the years, that especially in local communities—it is not always so obvious in urban areas but is in reasonably intact Indigenous communities—the decision making is real. People do get involved. They do expect to be consulted. They want to be party to the decision. We do not really have very good models for that in our Westminster system. I guess that is part of the misunderstanding that often occurs.

You are often forced, I suppose, to be defensive about what Aboriginal people do not know. What I have tried to push in this committee is what we do not know about Indigenous decision making. Aboriginal people have not survived on this continent for 80,000 years by not being able to make decisions about their own wellbeing. So I guess the question is what we, as the people with the purse strings, ultimately can do to assist communities to better make their own decisions and to be involved as partners. You talked about the people sitting around the table being the same people who had failed Indigenous people over and over again.

I guess what we are trying to do out of this committee is find better ways of working so that that decision making can come to the fore and the strengths of the Aboriginal community are enhanced. We are always looking at what they cannot do. English is not their first language.

They do not know the white law but we do not know Aboriginal law and custom. How many of us can speak an Indigenous language? Maybe Warren; I do not know. Most of us are pig ignorant. I am just keen to know what we can do as members of parliament and as people making recommendations to the government to bring out the strengths of Indigenous decision making and commitment to Indigenous faith. I find it very strong rather than weak.

Mr Quartermaine—Tom just indicated to me that our submission will be complete within the next couple of weeks. It will identify consultation and participation processes of working from the bottom up. There will be a process for implementation, or how we go about doing it. Maybe the committee would like to meet with a number of regional council chairs to put questions to them on how they are doing work with capacity building as well and ask them about their plan.

Dr LAWRENCE—I want to make one last point. We can go through the various relationships between government and ATSIC and so on. The current separation of roles between ATSIC and ATSI, just from my observations over the last few years, seems to be totally dysfunctional. Do you have any observations about that? I know that the recommendation is that they be reunified. The report about ATSIC was very clear about that. I presume commissioners have a very clear view themselves. Could you just briefly inform us of that?

Mr Quartermaine—The commission's view is to have a separation of powers and good governance within the act. It is spelt out very clearly. It would not need much. Through the Westminster system, it will take a long time. It is just to change the view and enshrine it in the act of good governance and the separation of powers. In the last couple of weeks, the question has been still out there. All the legal challenge has done is put the separation there more. We need to actually sit down and look at what is the best way and the best thing for the people. We must forget about our personal views. Whether they like or hate ATSIC is irrelevant. Whether ATSIC likes the government is irrelevant. We have got to look at what is best for the people on the ground.

I can honestly say here now that, if I had no doubt in my mind that my resigning as acting chair would ensure ATSIC's improvement, I would resign. I would actually look at myself. We need to evaluate ourselves. Are we here for the people or are we here for our own self-interest? If we are here for our own self-interest, we all need to resign.

Dr LAWRENCE—It would mean fewer people in the white parliament, let me tell you.

Mr Quartermaine—I am putting that right across the board. I can honestly say that now. If someone said to me, 'Look, Lionel, for the best interests of the people, you need to move on because of this, this and this,' I would resign now. It is not a problem.

CHAIR—Thank you. I want to ask an additional question on the separation of powers. Can you just clarify for me what you believe would be the better outcome in this or the best outcome?

Mr Quartermaine—The best outcome, I suppose, is that we need to do an evaluation on where we are. We have the separation of powers so we need to look now at the role of ATSIC. What is the genuine view of the government and the opposition about ATSIC? Are they serious about ATSIC? If we are serious about ATSIC, let us look at how ATSIC can improve to give the

best advice to the government on Indigenous issues. Do we then set up ATSIC like a Senate estimates committee, very much like what we have here, bringing in other agencies to question them on what they are doing about Indigenous affairs? I do not think we can go back. I believe we can only go forward. The best outcome for everyone will be to set up a body for ATSIC like Senate estimates, where all the commissioners are here. Bring in the minister or CEOs and question them on what they are doing about Indigenous affairs, what outcomes they are achieving for Indigenous people. I think that is the way we need to go.

CHAIR—Thank you for that. I am encouraged by that. Thank you.

Mr JOHN COBB—You mentioned alcohol management a while ago. In Queensland they have a justice group—I forget if that is the right name—in a lot of the communities. I am not sure if they have them in the Territory or not, but they do in Queensland. It seems to me that they are a bit of a toothless tiger. You were talking about the ability of communities to set up their own alcohol program, for example. I have no problem with that. But, unless you actually give them the power to mandate, they are pretty useless, I would have thought. I think at Palm Island they have one, but we saw ourselves the alcohol coming in on the plane willy-nilly. So how do you resolve that?

Mr Quartermaine—My understanding in Queensland is that the justice group has the role and responsibility of monitoring alcohol management. The communities themselves need to take that responsibility. They need to give them the resources to manage the alcohol plan. At the moment in Queensland, the police have the role of managing that alcohol when it should be the community.

Mr JOHN COBB—I guess my point is that management is one thing and enforcement is another.

Mr Quartermaine—They cannot enforce it.

Mr JOHN COBB—In other words, you do not think it is possible for it to be enforced?

Mr Quartermaine—They could enforce it if the Queensland government were to change the legislation to allow them.

Mr JOHN COBB—But you do not think that is the answer?

Mr Quartermaine—Yes. I think the community should be given that responsibility to manage it and to police it. At the moment, the only people who can police and manage it are the police. To me, what are the police there for? Are they there to manage that or the social issues of our society or are they to manage the criminal activity of our society? I would have thought the local government was there to plan the infrastructure and by-laws of a community. They will set up an opportunity to police and manage particular by-laws for parking. It seems with the alcohol management plan that the government makes a plan and then the police are picking up people with unopened bottles. We have got to look at the capacity of some of those laws. To me, it would be ideal if some of those laws were decriminalised. Alcoholism is an illness. It should not be a crime. It should be treated as an illness, as should gambling. Gambling is another factor of Aboriginal communities that people lose focus on. Gambling is just as bad as alcohol. While the

male is out there drinking, the female is gambling. I wish all state governments could take the role of the Western Australian government and allow one casino and no pokies. In every other state, you have your casinos and more pokies than pubs and clubs, which only contributes to the social issues.

Mr JOHN COBB—You mentioned in your submission that long term you need a bipartisan view. Obviously I would agree with that. However, it seems to me in the past that, if governments have put money into a program and it has been wasted or it has not worked, nobody has worried about it too much. They have tended to put more money into it and say, ‘Everyone makes a mistake.’ I think we have moved past that. I think the taxpayer has moved past that and I think the Aboriginal people have moved past that. I am probably coming a little back to the question that the chairman posed to you: what sort of checks and balances do you believe we have come to now? I do think we are past the time when we can just keep throwing money at programs. What do you believe is a fair check and balance for the taxpayer as well as for the Aboriginal people?

I have been very heartened in the last couple of years to hear from the Aboriginal leaders themselves that they believe we are past welfare. It has been proved not to be the answer. How do you believe we can put checks and balances in that will allow freedom of determination but at the same time give responsibility for everybody else?

Mr Quartermaine—I agree that Aboriginal people do not want to become welfare dependent. How do we get checks and balances? If you give money or a grant to someone, it must be attached to an outcome. It must be outcome based. If I were to give you, say, \$20 million for building houses, the outcome of that should be Indigenous employment to construct the homes, not purchase the homes. If you construct the homes, the capacity stays in the community. The finance stays in the community. The money is not going out into some real estate. Even with CDEP, the outcomes should—

CHAIR—Sorry to interrupt, but Mr Snowden and I have been talking about this for about a decade. Why hasn’t that happened?

Mr Quartermaine—There again, given that a number of people in our society have mates in real estate and mates here and mates there, it is a lot easier to go purchase a home. Some organisations believe that they are not an employment agency and that, therefore, they are there to purchase homes. Even when the federal government gives a grant to the state government, even to ATSIC, the same rule must apply. The federal government also must look at grant conditions to the state government. If they are getting money for Indigenous affairs, there must be some outcome for that money. If they are getting \$100 million for homes, they must look at the employment opportunity for Indigenous people. If they are getting money for houses, they must look at outcomes instead of just giving money to them.

Mr JOHN COBB—We have seen where that worked. Remember north of Broome.

CHAIR—Yes, I do. It was at Lombadina. I am sorry to cut across you. We will move to Warren for one quick question because I know he has to go.

Mr SNOWDON— Firstly, let me say that I concur absolutely with your emphasis on education, health and housing. If you want to build the capacity of communities and individuals, you have got to make sure they actually have the opportunity to live a healthy life and go to school and get an education. For a large proportion of Indigenous Australians that does not exist, certainly in my electorate. I also concur with your view about placing state and territory governments as partners with a responsibility to achieve outcomes. We know that in the Northern Territory there has been an absolute abysmal failure of governments to get outcomes in terms of Indigenous education, for example. That is historically because a government used to take 48 per cent of every dollar that went into the Northern Territory for education for its own purposes. That just cannot continue. That is not an Indigenous problem.

Given the fact that ATSI—Tom and Joann are here—does not have huge resources for discretionary expenditure, apart from the quarantine areas of housing, infrastructure and CDEP, what do we have? It is \$300 million, which is bugger-all. All the services that are applied for Aboriginal communities are the responsibility of governments, not ATSI. I think that is what we need to start thinking about. We need to get our heads around the idea that it is not ATSI that is responsible for the delivery of these services; it is governments—and governments have failed, not ATSI.

I want to raise a question which does concern me. You talk about consultation. This committee did a report in 1987-88 on the issue of self-determination, negotiation and consultation. It agreed with the view that consultation is just merely hopeless. Last week I was in Alice Springs. I attended a meeting at ATSI of the group going around the country flogging the idea of information sessions for the tendering out of legal services. I should have brought the document but I have a copy of it, which was issued 10 days prior to them arriving. It is about 400 pages long—a very long document. I went to this meeting. ATSI officers were there. Two hours were set aside. They were going from Alice Springs in the morning to Darwin in the afternoon and going around the country to tell people what this information document contained and, presumably, to answer questions.

Firstly, they could answer no questions. They said that, if there were any questions, they would take them away and respond on the web site. If you wanted to see the answers to these questions, you had to look at the web site. They were asked about how you consult with clients. In this case, we were talking about the Central Australian Aboriginal Legal Aid Service, which has been in existence for almost 30 years and has very good audits. It has now been told that it has the prospect of tendering out all its legal services. For what purpose? This organisation was started because it was a community driven organisation. Aboriginal people in central Australia had no access to justice. It now services 11 remote courts covering an area which is certainly more than half the Northern Territory for remote communities.

None of the clients of this organisation or any other clients of any other Aboriginal legal service in Australia have been consulted about these processes. Firstly, what did the commission decide about the legal services? What is the government's responsibility? These organisations, which were properly funded via ATSI in the first instance, are now being told they are going to be wound up potentially at the end of September with these things starting on 1 January. There was no consultation and no negotiation. There was just an impost of an idea by ATSI. I understand it was at a meeting in June last year that this—

CHAIR—You should let the commissioner answer.

Mr SNOWDON—I will. It is a very important issue and there are two things here. First, did the commission make a decision without discussing it with its clients, its members, its regional chairs and the community? Second, when they did make a decision, I understood they withdrew their decision or changed their decision last week or whenever we met. Now the government is going ahead and proceeding with the idea of tendering out these legal services without any consultation whatsoever with Indigenous Australians. Can you respond to that?

Mr Quartermaine—Yes. First, it is my understanding that the board first flagged the tendering process in 2001. It was raised again in June last year when Geoff Clarke was still the chair. He signed off on it. In terms of the negotiation, I am not quite sure about the rest of the country, but I know in my region meetings took place with a number of legal services in Queensland. Two of the legal services, Njiku Jowan and Tharpuntoo, even agreed to amalgamate. All I can do is answer. I am not quite sure.

Mr SNOWDON—I can tell you, Lionel. Take this back to your board. I am angry as all shit, frankly. I am very concerned about the lack of consultation by the ATSI board, the ATSI councillors. It is very, very important. What you are potentially doing—

CHAIR—Warren, I think the commissioner has answered it. I think—

Mr SNOWDON—Actually, I have not finished. It is very important. I am very concerned about this and I am quite angry about it. The people who live in Kiwikurra or Docker River, who are the clients of this organisation, are not being informed. This is the responsibility of ATSI Canberra or ATSI Canberra. It is not the responsibility of the regional office of ATSI in Alice Springs.

CHAIR—Thank you.

Mr Quartermaine—I would like to add that the state government has a responsibility as well as the federal government for legal services.

Mr SNOWDON—I understand this was discussed at Norfolk Island last week at the attorney-generals conference on Friday. I rang someone to ask them. They raised it and expressed their concern about the direction with the Attorney-General.

CHAIR—Thank you, Mr Snowdon.

Mr Quartermaine—Can I catch up with you later and talk a bit more about this. I will raise it so I can get more information. What you are raising is—

Mr SNOWDON—I have got very good notes of the meeting.

Mr TOLLNER—I do not know why Warren is so interested in feather-bedding a bunch of lawyers. What is wrong with competitively tendering for a job?

CHAIR—Come to your question. We have been through that.

Mr SNOWDON—You don't know your arse from your elbow; until you do, shut up.

CHAIR—Order!

Mr SNOWDON—Well, I am sick of this crap. This bloke here would not know an Aboriginal—

Mr TOLLNER—Hang on, Warren. Be honest.

CHAIR—David, do not provoke, please. Give your question to the commissioner, please.

Mr SNOWDON—I am happy to debate him anywhere—here, out in the stumps or in any Aboriginal community in Australia you would like to name. And I bet I know who will win.

CHAIR—Order! David, ask your question, please.

Mr TOLLNER—Lionel, at our roundtable meeting you talked about a number of agencies failing Aboriginal people in capacity building. Can you specifically name some of them? In particular, would you name some organisations that you think have not?

Mr Quartermaine—I could certainly give you those names. I have no problem in naming the health department or NACCHO. They are the two I have noticed. If I have a list of agencies, non-government and government ones, I will certainly name them. But I did not see anyone there who can actually stand up and say, 'Yes, this is what we are doing to ensure capacity building in our community.'

CHAIR—Can I just intervene, with Mr Tollner's forbearance. You mentioned education earlier. I would have thought the education system has fundamentally failed.

Mr Quartermaine—Certainly.

CHAIR—I do not know if Mr Cobb or Mr Snowdon mentioned it. It has just fundamentally failed. We can add that to the list. Back to you.

Mr TOLLNER—Were you finished?

Mr Quartermaine—If I can get a list, I will. We will add education to the list as well.

Mr TOLLNER—As failures?

Mr Quartermaine—Failures. If you look at the productivity report, it clearly shows the disadvantage in Aboriginal communities. Everyone has to take responsibility. Even I do. Even I have to admit that we have all failed.

Mr TOLLNER—Lionel, would you say that in some regard Aboriginal Australia is almost overserved? I will qualify that by saying that there seems to be a plethora of bureaucracies there that have all got their finger in the pie to some extent, trying to deliver services. If I were

living on a remote community, I just would not know where to look. It seems to me that there are a multitude of different organisations out there trying to provide some sort of service.

Mr Quartermaine—The problem that I see is that no-one knows what the other party is doing. There is no coordination amongst departments or organisations about the best way to go. At the moment, agencies just are not working together as a collective to go there as one voice. That way, they share the resources instead of duplicating services. You streamline a lot of services. It is about coordination. It is not a lack of services going there. It is about a lack of coordination. No-one is working with the others.

Mr TOLLNER—You talk about self-determination and communities having more say about what is best for them. How does a community determine what is best for them and who they wish to deal with when there are so many different options on the table?

Mr Quartermaine—If someone goes to Aboriginal communities around Australia and says, 'This is what we're going to do to you', they will sit there and say, 'Well, here we've got another person coming in saying the same thing they said 10 years ago.' Aboriginal people are now in a situation where they have heard it all before, seen it all before and are still waiting for it to happen.

CHAIR—Thank you very much.

Mr Quartermaine—We have got to the stage now where we have got to start implementing what we are talking about. There must be more coordination with programs on the ground. There has to be at the table when you meet with the community someone who can say, 'Yes, this is what I'm going to do.' For so long we have sent juniors there, who have said, 'Hang on. I've got to go and see my supervisor.' You need to send someone there who can say yes and no to any particular issue.

Mr Calma—Under the COAG trials there is an attempt to have a much more coordinated approach by both federal and state government agencies working with the communities.

Mr JOHN COBB— What is the record of them? How successful have they been?

Mr Calma—I do not have a stocktake of what has happened around the country. Last week I spent out at Wadeye. There is a lot of very strong community involvement and direction there. There are a number of different models around the country being explored. It may be a bit early to be able to conclusively say—

Mr SNOWDON—Wadeye, it is true, has been driven from the ground, from the bottom up, as opposed to having had someone come from the outside. It has key government agencies and people who actually know what they are talking about. The real issue, it seems to me, is: how do you compel partnerships between governments that are reluctant to participate? You have governments of different political persuasions. Historically, that has been the case from time to time, of course. How do you compel them to engage in a way which will get the outcomes that people around a table might believe are acceptable when they have different priorities?

CHAIR—Thank you, Warren. The commissioner is looking through the list of roundtable participants. Do you want to add any comments?

Mr Quartermaine—There is Indigenous Business Australia. I am yet to see business out there in the communities. There is the Indigenous Land Corporation. We all know that they buy land, but they have no capacity to ensure that people who buy the land can service the land.

CHAIR—I seek clarification. With regard to the balance among rural, regional and urban: should there be a greater focus on the urban areas from the ILC?

Mr Quartermaine—I think there should be an equal focus.

CHAIR—But it is not at the moment, is it?

Mr Quartermaine—No.

CHAIR—I do not think it is. I am just inviting comments.

Mr Quartermaine—I believe all services should be equal instead of what they do in the cities. I think the same services should apply to someone in Georgetown. If there is one Aboriginal person in Georgetown—

CHAIR—For example, Redfern.

Mr Quartermaine—Yes. Westpac banking is only in Cape York. I am not quite sure what they do. Are they going to put ATMs in all the communities? I do not know. Some of these are just Aboriginal organisations in a particular region.

CHAIR—Do you have a view about the registrar of corporations?

Mr Quartermaine—Yes. We are working with the registrar of corporations now to look at how to give better capacity building.

CHAIR—With the new act, of course.

Mr Quartermaine—Yes. So, instead of going in there and shutting the organisation down, they are actually going there giving training to the directors so they know what their roles and responsibilities are. So that is happening.

CHAIR—A step in the right direction?

Mr Quartermaine—Yes.

Mr JOHN COBB—To be fair, I thought the bank group Westpac did have a bit of a plan to try to bring banking in. I thought they were the only ones that did.

Mr SNOWDON—Not in Cape York.

Mr JOHN COBB—I cannot comment on Cape York. I just meant generally.

Mr Quartermaine—The Commonwealth is in there. A lot of Commonwealth agencies are there. There are post offices in remote areas. They have that there as well.

CHAIR—I have about four quick snapshots, if I can put it that way. Can you encapsulate in a few words what you thought of the review of ATSIC itself. What were the positives and the negatives and what is the way forward?

Mr Quartermaine—Most of that stuff in the review is happening already.

CHAIR—Thank you.

Mr Quartermaine—If we look at the principles of ATSIC and why ATSIC is here, going back to the government appointing people is going backwards. Having just two commissioners to deal with and focus on national issues once every four years is absolutely crazy. The only way we can come to a conclusion, I suppose, is to look at the principles of what you want ATSIC to do. If you want ATSIC to develop policies and advocacy, then let's do it. If we look at the roles of that commission, what are they going to take on? If they are going to take on roles in this type of setting, like a Senate estimates hearing, we will be dealing with a number of departments and the workload will increase. On that alone you cannot justify the numbers coming down. The roles and responsibilities will increase. Every commissioner and every regional council wants the separation of powers, but they would like it to be part of the act.

Mr SNOWDON—Does that mean no control over program funding?

Mr Quartermaine—Have an influence over the outcomes of programs.

Mr SNOWDON—The policy?

Mr Quartermaine—The policies. So, with the housing program, our policy will be to construct homes instead of buying them—

Mr SNOWDON—Or whatever.

Mr Quartermaine—to create employment. We could look at how we can influence state and federal policies. If you have an ATSIC body and they cannot influence government, be it state or federal, who is kidding whom?

Mr SNOWDON—I want to turn to the \$200 million or \$300 million in discretionary funds, or the general program funds within ATSI at the moment. If they came back to ATSIC, what role would the commissioners or regional councillors have in making decisions about funding?

Mr Quartermaine—The only role we want to play is to identify who will get that money. If John Miller applies to get \$2 million worth of housing funds, we do not have that role to say that John Miller will get that \$2 million. The contract will say that, if an organisation or a company gets that money, they must deliver these particular outcomes—construction and 80 per cent Indigenous employment, whether that is feasible or not.

CHAIR—But whatever.

Mr Quartermaine—Whatever. There must be more employment of Indigenous health workers. There must also be a recognition of health workers as a professional group. There must be recognition of the type of work they do so their level of pay is equal. In teaching, it would ensure that trainee teachers or police who go out in the community would do a subject on Indigenous culture, instead of spending one hour on it. It would be a semester of Indigenous affairs and what to expect. It is about technology and how we can utilise the information on computers out there. It is about broad based policies. Instead of having federal policies and state policies and local government policies, we will have broad based policies so that it will take in the government, state and federal, and Aboriginal people's views. Instead of four, you would have only one broad based policy. It makes sense.

Mr SNOWDON—In terms of the review recommendations, would you have ATSIC present at COAG?

Mr Quartermaine—Yes.

CHAIR—Thank you. That is a good insight, I think. One of the great difficulties I have is with the cultural issues and understanding. The key question for me is how we respect and develop the culture in a way that enhances progress. How do we utilise it to create a positive future? Do you have anything on that?

Mr Quartermaine—You must respect Aboriginal decision making and treat us how you would want to be treated. All Aboriginal people and everyone in Australia wants access to health, education and employment. They want to make their own decisions. If you must, to move forward, Aboriginal decision making and the way they do it must be respected. Regardless of whether I like it, you like it or some other person likes it, if that is the way it is going to achieve a particular outcome, that must be encouraged as long as it does not take in self-serving interest.

Mr SNOWDON—What is your reaction to the intervention by South Australia on the AP lands?

Mr Quartermaine—I do not have a brief on that yet.

Mr SNOWDON—I think we are going in the right direction.

CHAIR—I do too. That is on the record now. It is very new. It is my electorate.

Mr Quartermaine—Commissioner Klynton Wanganeen is the ideal person to speak to.

CHAIR—Yes. I have been up there with him so we are a bit familiar. Thank you very much.

Mr SNOWDON—It is an interesting interposition here because there is a group, the AP women's council, who are very strongly endorsing what is done by the government. The AP executive, on the other hand, are saying that they oppose it. So there are some really interesting views being expressed within the community. One goes to the whole question of capacity but also about decision making processes.

CHAIR—We have touched on this, and it is my final question. It is about the COAG structure and the hope for it. Tom has mentioned it. Thank you. Can I just simply say that I am wary of it. I believe the states and territories are going to be brought kicking and screaming to the table some time, and the federal government, with all of our warts-and-all errors from the past. I do not really expect a comment but invite your response on COAG and what you might aspire to from the COAG structure and the COAG trials.

Mr Quartermaine—Again, it depends on what state you are in. In some areas it is working well and in some areas it is not. It all comes down to the community being an equal partner and being able to participate at those forums. That is what it boils down to.

CHAIR—Thank you very much. For me, it has been very rewarding. I hope it has been a useful exchange to you people. I thank you all for being with us. I need to remind all of us that the discussion paper and the transcript of the roundtable are not authorised for publication by the committee. We are keeping them in house to respect those participants. I remind everybody that we want to maintain it at that status at this point. Thank you for attending. If the committee have any further questions, the secretary will contact you. With those few words, all I can say is I have been delighted to have you here. I reiterate that it has been very valuable for me.

Mr Quartermaine—Thank you. Thank you for your time.

Resolved (on motion by Mr Tollner):

That this committee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

CHAIR—I declare the public hearing closed.

Committee adjourned at 11.39 a.m.