

PART ONE

BACKGROUND TO THE INQUIRY

CHAPTER ONE

INTRODUCTION

1.1 THE TERMS OF REFERENCE

On 20 September 1995, the Hon Franca Arena, MLC, moved in the Legislative Council

That this House:

1. *Being the oldest Parliament in Australia and in the State which saw the landing of Captain Cook, notes that as we approach the 21st century there has never been an indigenous member of the Parliament.*
2. *Notes that the New Zealand Parliament has had a number of dedicated Maori seats since the 19th century.*
3. *Requests the State Government to consider legislation to ensure that a number of dedicated Aboriginal seats be set aside so that the voice of the first Australians can be heard in this Parliament, the mother of all Parliaments in Australia.*
4. *Considers this action essential:*
 - (a) *to address the injustices suffered by the indigenous people over the last 200 years and as a method of empowering Aboriginal Australians to influence and have control over their own destinies; and*
 - (b) *given the indifference of all political parties in preselecting candidates of Aboriginal background for election to the Legislative Council and Legislative Assembly.*
5. *Calls for this legislation to be introduced as soon as possible after this important issue is debated in this House.*

The Hon James Samios, MLC subsequently moved that the question be amended by omitting paragraph 5 and inserting instead:

5. *Refers the provision of legislation for dedicated Aboriginal seats in the Parliament of New South Wales to the Standing Committee on Social Issues for inquiry and report.*

The amended motion was agreed to by the House. The insertion of the new paragraph five provides the Committee with its Terms of Reference, which are:

That the Standing Committee on Social Issues inquire into and report on the provision of legislation for dedicated Aboriginal seats in the Parliament of New South Wales.

1.2 DEFINITIONS

For the purposes of this Inquiry, the Committee defines dedicated seats as: one or more seats reserved in either House of the NSW Parliament for a particular group of people.

The Terms of Reference for this Inquiry do not include Torres Strait Islanders because, while they are indigenous to Australia, they are not indigenous to the geographic region of NSW.

1.3 THE ISSUES PAPER AND STUDY TOUR

In April 1997 the Committee published an Issues Paper titled *Aboriginal Representation in Parliament*. Most of the material in the paper was collected by the Committee during a study tour conducted in 1996 to examine indigenous representation in Norway, Canada, the United States and New Zealand. A small amount of the information in the Issues Paper is reproduced in the first part of this Report.

1.4 STRUCTURE OF THE REPORT

This Report has two parts, Part One: Background to the Inquiry and Part Two: The Inquiry Process. The first part of the Report, as the title implies, includes background material relevant to the Committee's Inquiry. **Chapter Two** includes a brief account of Aboriginal representation in Australian Parliaments and previous calls for dedicated Aboriginal seats. **Chapter Three** looks briefly at how other jurisdictions provide for the representation of indigenous people, including dedicated seats in New Zealand and the state of Maine in the United States and an indigenous assembly to represent the Sami people in Norway. This Chapter draws extensively on the the Issues Paper.

Part Two distills and discusses the feedback received by the Committee about aspects of Aboriginal representation during the Inquiry. **Chapter Four** describes the methods employed by the Committee to consult members of the Aboriginal and wider communities about indigenous representation, including formal evidence, written submissions and community meetings. **Chapter Five** is an overview of the evidence and submissions and **Chapter Six** summarises the main arguments for and against dedicated seats.

Chapter Seven examines some of the suggestions made in the evidence, submissions and community meetings about how dedicated seats could work in practice. For instance, how many seats, where they should be located and how the candidates should be elected. During its Inquiry the Committee sought feedback on ways to

improve Aboriginal representation, other than dedicated seats, for example, the establishment of an Aboriginal Assembly, non-voting seats and better representation in political parties. These options are discussed in **Chapter Eight**. **Chapter Nine** looks at legal and constitutional issues, including whether a referendum would be required to introduce dedicated seats. The Committee's conclusions are contained in **Chapter Ten**.