

PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

STANDING COMMITTEE ON SOCIAL ISSUES

**ENHANCING ABORIGINAL
POLITICAL REPRESENTATION**

INQUIRY INTO
DEDICATED SEATS IN THE NEW SOUTH WALES PARLIAMENT

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TERMS OF REFERENCE

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.

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CHAIR'S FOREWORD

The New South Wales Parliament has yet to have an Aboriginal member. This situation and the broader issue of Aboriginal representation in the political process has been examined by the Standing Committee on Social Issues and this Report represents our findings. As Chair of the Social Issues Committee there are a number of people I would like to thank for the contribution they made to this Inquiry.

From the outset Committee Members have been committed to ensuring that consultation with members of the Aboriginal and wider communities would be a key element in the inquiry process. Therefore, in addition to inviting written submissions and calling witnesses, the Committee decided to conduct a series of consultation meetings in nine regional centres across the State. This was the first time the Social Issues Committee has taken such an approach as part of an Inquiry and it proved to be most successful. I am especially grateful to all members of the public who presented their views at these consultation meetings, made written submissions to the Committee or presented formal evidence. Their ideas and suggestions are an integral part of this Report.

In March 1998, the Committee launched an information brochure used extensively throughout the consultation process at the Eora Centre for Aboriginal Studies in Redfern. We are grateful to the people who assisted on this day: the Hon Jeff Shaw, MLC, Attorney General and Minister for Industrial Relations; Ms Millie Ingram from the Wiradjuri NSW Land Council and musician and activist Mr Peter Garrett. I would also like to thank Mr Peter Moss and Ms Alison Utley from *Campaign City* who were responsible for the design and production of the consultation brochure.

The Committee engaged consultants Ms Shelley Reys, from Arrilla Aboriginal Training and Development, and Mr John Telford, from Glencoe Consulting, to assist in conducting the community consultations. Their advice and assistance in planning and facilitating the meetings was invaluable. The Committee would like to thank them for sharing their knowledge and extensive experience. Mr Bill Norris had the daunting task of recording the community meetings. He provided full and accurate transcripts of the diverse views expressed at these meetings and we appreciated the care he took in this task.

There was considerable change in the Committee's membership during the Inquiry. The Hon Ann Symonds, MLC, one of the Committee's original Members and Chair for the past three years, retired and I assumed the chair. At the same time, the Hon Dorothy Isaksen, MLC was replaced by the Hon Carmel Tebbutt, MLC. The Hon Elisabeth Kirkby, MLC, another longstanding member of this Committee, also retired. Her place was taken by the Hon Dr Arthur Chesterfield-Evans, MLC. I would like to thank all Committee Members, both past and present, for the commitment they demonstrated throughout this Inquiry.

A number of officers of the Legislative Council provided advice to the Committee and the Secretariat during the course of this Inquiry and I would like to acknowledge their input: Mr John Evans, Clerk of the Parliaments, provided constructive feedback on the consultation brochure and on the chapter in the Report dealing with the legal and constitutional implications of dedicated seats; Ms Velia Mignacca also made significant editorial comments on the legal chapter; Mr Warren Cahill, Usher of the Black Rod and Clerk Assistant - Committees, gave the Committee procedural advice regarding the conduct and status of the consultation meetings and secured an advice from the NSW Crown Solicitor on relevant legal issues; and Ms Fiona Pacey and Ms Rosa Lozusic acted as facilitators at the rural community meetings.

Finally, I would like to thank the Committee's Secretariat staff: Dr Jenny Knight, the Committee Director, provided executive support to the Committee, participated in the consultation meetings and edited and proof-read the final Report; Mr Glen Baird undertook background research and prepared the Issues Paper which has been a valuable resource throughout the Inquiry; Ms Anita Tang, a Senior Project Officer seconded to work with the Committee on a separate Inquiry, helped to facilitate at two community meetings; and Ms Gro Frølund, a student volunteer, assisted at several workshops and provided research assistance on the final Report.

Special thanks are due to the Secretariat's Committee Officer, Ms Heather Crichton. Heather was primarily responsible for coordinating the community consultation meetings in nine different locations across NSW. The smooth running of each consultation was a direct result of her attention to detail and organisational abilities. Ms Crichton also processed submissions, arranged hearings and prepared the final Report for printing.

Senior Project Officers, Ms Beverly Duffy and Ms Julie Langsworth, were jointly responsible for the day-to-day management of this Inquiry as well as providing the overall direction. Their tasks included producing the consultation brochure, organising the hearings and facilitating at the community meetings, undertaking research and writing the final Report. Throughout the Inquiry, both displayed sound judgement, articulate and intelligent direction and a sensitivity towards Aboriginal issues. Ms Duffy was initially responsible for the Inquiry and her clear focus on the issues gave the Inquiry process the structure it needed including the concept of community consultations and the brochure.

I commend this Report to the Government.

JAN BURNSWOODS, MLC

CHAIR

EXECUTIVE SUMMARY

There has never been an Aboriginal person elected to the NSW Parliament.

The Committee asserts that a just and equitable society requires the involvement and active participation of all sectors in the decision-making processes which affect their individual lives and communities. The Committee also recognises the special status that Aboriginal people hold in our society as the descendants of the original inhabitants and that special measures are warranted to ensure that they are able to fulfil their democratic expectations and exercise their rights without inhibition.

The Legislative Council directed the Standing Committee on Social Issues to investigate the desirability of enacting legislation to introduce dedicated Aboriginal seats to the NSW Parliament.

In the first phase of the Inquiry, the Committee investigated how certain other jurisdictions provide parliamentary representation for indigenous or ethnic groups. During 1996, two Members of the Committee and a representative of the Secretariat conducted a study tour of Norway, Canada, the United States and New Zealand. In April 1997, the Committee published an Issues Paper which summarised the information gathered during the study tour.

This final Report, *Enhancing Aboriginal Political Representation*, is the result of the Committee's full Inquiry and it includes information from the study tour, submissions, oral evidence, and the community consultations. The Report has two parts: Part One (Chapters 1-3) includes background material relevant to the Committee's Inquiry; Part Two (Chapters 4-10) distills and discusses the feedback received by the Committee about aspects of Aboriginal representation.

During the course of the Inquiry, the Committee took evidence from 19 witnesses on the legal, constitutional and political implications of dedicated Aboriginal seats. Evidence was taken from the key indigenous organisations including representatives from the Aboriginal and Torres Strait Islander Commission (ATSIC) and the NSW Aboriginal Land Council. In addition, Committee Members heard from authorities on the law and the NSW Constitution, a political scientist, an Aboriginal member of local government, the Australian Electoral Commission and representatives from five NSW political parties.

In all, the Committee received 40 submissions. Eight were from representative Aboriginal organisations and other relevant agencies or groups interested in Aboriginal affairs. The majority of the other submissions came from individuals.

In an attempt to facilitate public participation in the Inquiry, the Committee conducted a series of consultation meetings across the State. Approximately 415 people attended these meetings which were held in Redfern, Parramatta, Armidale, Moree, Wagga Wagga, Lismore, Batemans Bay, Coffs Harbour and Dubbo. At each meeting participants were asked to consider the arguments for and against dedicated seats, how dedicated seats could work in practice and other options to improve Aboriginal representation.

This is the first time the Standing Committee on Social Issues has conducted such a consultation process. The consultations enabled Committee Members to hear directly from members of Aboriginal and non-Aboriginal communities and provided an opportunity for indigenous and non-indigenous people to debate the issues of Aboriginal political participation and reconciliation. Many Aboriginal participants expressed a strong desire to play a more active role in the political process in this State.

The Committee found significant support and enthusiasm for the concept of dedicated seats among the Aboriginal and non-Aboriginal people who attended the consultation meetings and from the key representative Aboriginal organisations in NSW. However, there was little agreement on the mechanics of dedicated seats, such as the appropriate number of seats, how candidates should be elected and in which House they should be located. The lack of a clearly defined proposal for dedicated seats made it difficult for some people who participated to declare their support for the concept.

The details of implementing dedicated seats for Aboriginal people are not widely appreciated and the processes for election together with the political implications involve complex issues. Sufficient time could not be made available to fully explain and discuss these issues during the consultative meetings and the Committee recognises that consensus was unlikely to be reached in these circumstances. On many occasions Aboriginal people suggested that they should have been involved in formulating the proposals before consultations were undertaken.

The evidence presented to this Inquiry clearly demonstrates that Aboriginal people are under-represented at all levels of government, notwithstanding the election of several NSW Aboriginal people to local government in recent years and the election of a NSW Aboriginal person to the federal Senate in 1998. The conclusions to this Inquiry seek to provide ways to enhance Aboriginal participation in the political process, both as political representatives and as voters. The Committee believes that a just and equitable society requires the representation of indigenous people in the NSW Parliament.

CONCLUSIONS

CONCLUSION ONE

The Committee considers that the following steps must be taken before dedicated seats could be introduced:

- further consultation with Aboriginal people about how dedicated seats would operate;
- the conduct of an education campaign about dedicated Aboriginal seats, which involves individual Members of Parliament, political parties and the community;
- an assessment of the level of support for dedicated seats in the existing political parties and the community; and
- the development of a proposal for dedicated seats and its adoption by the people of NSW at a referendum.

These steps pose formidable challenges to the advocates of dedicated seats. The Committee is firmly convinced that Aboriginal people should formulate the initiatives to improve Aboriginal representation and believes that the establishment of an Aboriginal Assembly should be considered, as an interim measure, by the Aboriginal community.

CONCLUSION TWO

The Government Members of the Committee believe that an Aboriginal Assembly to meet in the NSW Parliament should be established as an interim measure to further Aboriginal representation at all levels of government. The Assembly should be guided by a formal Charter and be adequately resourced. The Assembly should only be established if it has significant support from the Aboriginal community in NSW.

Other Members of the Committee do not support the establishment of an Aboriginal Assembly at this stage.

CONCLUSION THREE

A majority of Members of the Committee concluded that every political party represented in the NSW Parliament should be asked to develop an action plan by March 2000. This plan could detail the steps the party might take to encourage Aboriginal participation, including the methods to encourage Aboriginal people to join their party, participate in committees and policy development, stand as candidates for winnable seats and gain employment as support staff to sitting members of Parliament.

Each party could be invited to make an annual report to the NSW Parliament on the progress of their action plan.

The other Members of the Committee believe that the political parties could do more to encourage Aboriginal participation and seek their commitment to improve this situation.

CONCLUSION FOUR

The Committee supports the Local Government Aboriginal Mentoring program and considers that, if the foreshadowed evaluation shows that mentoring is effective in encouraging Aboriginal people to serve in Local Government, the program should be extended to the elections in 2003.

CONCLUSION FIVE

The Committee urges the Minister for Aboriginal Affairs to request the federal Special Minister of State to reconsider funding an information and education program for indigenous people about the electoral system.