

**SELECT COMMITTEE ON THE
RESERVES (RESERVE 43131) BILL 2003**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON THURSDAY, 14 OCTOBER 2004**

Members

**Hon Peter Foss (Chairman)
Hon Robin Chapple
Hon Jon Ford
Hon Louise Pratt
Hon Derrick Tomlinson**

Committee met at 10.01 am**CURRY, MR RICHARD****Director General, Department of Indigenous Affairs,
197 St Georges Terrace,
Perth, examined:**

The CHAIRMAN: On behalf of the committee, I welcome you to the meeting. You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Curry: Yes, I have.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during this hearing, for the record, and please be aware of the microphone and try to talk into it. Even though this is a private hearing - the committee has resolved that your evidence will be in a private hearing - you should note that the committee retains the power to publish any private evidence. The Legislative Council may also authorise publication. This means that your private evidence may become public. Please note that you should not publish or disclose any private evidence to any other person at any time unless the committee or the Legislative Council has already publicly released the evidence. I advise you that premature publication of private evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Do you understand that?

Mr Curry: I understand that, Mr Chair.

The CHAIRMAN: You were one of the early witnesses that we had, and we have learnt a little more since we spoke to you. Therefore, I have a number of questions arising from your evidence. Perhaps we could start with recommendation 141 of the Gordon inquiry, which dealt with the Swan Valley Nyungah Community. Are you aware of that recommendation?

Mr Curry: The memorandum of understanding.

The CHAIRMAN: The recommendation that there be a memorandum of understanding. Are you aware of what the Government's response to that was?

Mr Curry: The Government's response was that it would not entertain an MOU with the Swan Valley Nyungah Community.

The CHAIRMAN: Were you involved in the development of the response by the Government to that recommendation?

Mr Curry: Not to proceed, no.

The CHAIRMAN: You were not?

Mr Curry: No.

The CHAIRMAN: Do you have any idea where that response came from?

Mr Curry: I do not know, no. I still do not know the answer to that.

The CHAIRMAN: Your views were not sought on whether -

Mr Curry: I know that some agencies provided input to that - I think the health department and the WA Police Service - but at the time that input was sought, it was known to us that those two

particular recommendations would not be supported by the Government, so we did not have input to that.

The CHAIRMAN: How did you know that? You said it was known. How did you come to know that?

Mr Curry: I think Ms Warbey would have communicated that to us.

The CHAIRMAN: So as far as you were concerned, that was a decision that you were not asked for your opinion on.

Mr Curry: Which required no response from us, yes.

The CHAIRMAN: Do you have an opinion?

Mr Curry: On the memorandum of understanding?

The CHAIRMAN: Yes.

Mr Curry: If I could just clarify: my understanding of what the Government meant by the memorandum of understanding was that -

The CHAIRMAN: Sorry; it was not what the Government meant; it was what Ms Gordon meant by it.

Mr Curry: Ms Gordon, yes. The Government's interpretation of that was that it was not prepared to enter into a memorandum of understanding, which I think Mr Bropho saw particularly as an arrangement between him and the Government. Therefore, I would answer your question by saying that our task, as an agency, was to facilitate the engagement of service providers at a local level with Mr Bropho. It has always been my experience that it is useful to have a working arrangement with any Aboriginal community, particularly on sensitive matters like those we are dealing with here. In fact, Mr Pedler, my regional manager, was keen to establish a working arrangement. Whether that was to be called an agreement or a memorandum of understanding was unclear. However, my view is that it is useful, because it gives us a point of reference, and it also enables us to thrash out any difficulties that there might be in the perceptions of how we see our working relationships.

The CHAIRMAN: Maybe we can ask you now. What is your view about that recommendation by Ms Gordon? Do you think it was a sensible one?

Mr Curry: I think it is sensible. I would have supported it.

The CHAIRMAN: I have read again one part of your evidence, and I am not absolutely clear on it. You were asked by Hon Derrick Tomlinson about the meeting that you had with ATSIC. You made it quite clear that at that meeting you did not discuss the closure of the camps.

Mr Curry: Yes, I understand what you are talking about, yes.

The CHAIRMAN: At page 13 of your evidence, Hon Derrick Tomlinson said -

Did the DIA seek ATSIC's advice on the closure of those four communities?

Your answer to that was, "Yes."

Mr Curry: I do not have that evidence in front of me, but if you would give me a copy -

The CHAIRMAN: I will just read it to you.

Mr Curry: I understand what you have said, yes.

The CHAIRMAN: It states -

Hon DERRICK TOMLINSON: Did the DIA seek ATSIC's advice on the closure of those four communities?

Mr Curry: Yes.

Hon DERRICK TOMLINSON: When?

Mr Curry: It would have been just shortly before that.

Hon DERRICK TOMLINSON: What page number is that?

The CHAIRMAN: Page 13. Perhaps we should go back. I will start again. It states -

... a paper was presented to the Council ...

Mr Curry: This is the session on Monday, 18 August, at page 13?

The CHAIRMAN: Yes.

Mr Curry: How far down the page are you, Mr Chair?

The CHAIRMAN: Hon Derrick Tomlinson read a letter that was headed "Indigenous Urban Settlements Project". Then he asked you -

Are you aware of the paper ...

You replied -

Not the specific paper itself but I am aware of what was behind this letter.

Then it states -

Hon DERRICK TOMLINSON: Did the DIA seek ATSIC's advice on the closure of those four communities?

Mr Curry: Yes.

Hon DERRICK TOMLINSON: When?

Mr Curry: It would have been just shortly before that. The exact date I would have to provide you.

Hon DERRICK TOMLINSON: I would like the exact date, please.

I do not know that we have that exact date. Do we have it?

The Advisory Officer: We have, because we have the letter.

The CHAIRMAN: No, I do not think so. It is not the same. On the next page, it states -

Hon DERRICK TOMLINSON: The purpose was to request ATSIC's advice on the future of those four settlements?

Mr Curry: That is correct.

Hon DERRICK TOMLINSON: Did the future include the closure of all four?

Mr Curry: Closure was not mentioned.

Further down the page it states -

Hon DERRICK TOMLINSON: Your contention is that it is quite separate from the other issue.

Mr Curry: Yes. Separate from that entirely.

Have I correctly understood you to say that you had discussed closure, but it was not in that letter and it was not at that meeting? Is that correct?

Mr Curry: Yes, Mr Chair. The meeting - I need to find the date - has been referred to by Mr Joyce in his evidence as well. The four urban settlements in the Perth area have been of concern for some time, particularly to Homeswest, which has a responsibility for the provision of housing, and Mr Joyce has alluded to the fact in his evidence that there is a very high maintenance cost on those properties, and also to my agency. They fall into the metropolitan -

The CHAIRMAN: These are the other three.

Mr Curry: Yes. They fall into the metropolitan regional boundaries and are serviced by my Midland office. What we were trying to do individually as agencies was to see whether there is a better way of dealing with those agencies. My view - and I do not lay claim to the view that they were failed experiments; I am not sure where that terminology came from - was that the sentiment is there that they did need to be reviewed, that marginalising people on properties on the outskirts of town, not within full access to services, is not something we should continue; or, if we were going to do that, we needed to have a policy position on how we would deal with it.

[10.10 am]

The CHAIRMAN: Please hold it there, because a lot of the comments you have directed to us really relate to the other three, do they not? You do not have any responsibility, nor does the Department of Housing and Works have any responsibility, for the Swan Valley Nyungah camp. In fact, the Swan Valley Nyungah camp is not away from services in the way that the other three are.

Mr Curry: That is correct.

The CHAIRMAN: Those comments really relate to the other three, rather than the Swan Valley.

Mr Curry: They do, but you cannot talk about the urban settlements without including it, so it is a useful distinction to make. Closure was not the focus of that meeting; I can assure you of that. The intention was to have a discussion with ATSIC about how we should move forward with that, and what we should do. The proposition was put to ATSIC that we are prepared to sit down and have a discussion, and we would like to have some sensible advice to provide to government on what those camps might look like in five, 10 or 15 years time. Undoubtedly, closure would have been discussed. It would have made sense to say, "Well, will they still be there in five or 10 years time; perhaps we should move towards dealing with that because we are dealing with people on those properties?"

The CHAIRMAN: Closure was not discussed with the intent of saying we think they should be closed, but it was one of the options that came up necessarily while you were discussing the future?

Mr Curry: That is correct.

The CHAIRMAN: It was not for the purpose of discussing the closure; it came up as a necessary part of the discussions?

Mr Curry: That is correct.

The CHAIRMAN: Who developed the urban settlements project?

Mr Curry: The urban settlements project was developed primarily by my office, by Mr Pedler. I think a label he loosely applied was taking a holistic view of those four communities.

The CHAIRMAN: Were you involved?

Mr Curry: No, other than knowing it was happening. It was a piece of work in progress, which was not shaped up or formalised to any large extent.

The CHAIRMAN: Do you have any idea where it got to, or how much he had proposed in terms of any solution?

Mr Curry: There was no solution proposed. The point that it got to was to say - Mr Pedler initiated that meeting which I attended - that we needed to get key agencies, DCD - sorry, ourselves, Homeswest and ATSIC around a table to talk about where we go with this.

The CHAIRMAN: Do you know whether any of the elements in that draft document were implemented in respect of reserve 43131?

Mr Curry: Which document do you refer to?

The CHAIRMAN: The urban settlements project. Did anything that was in that manifest itself in the decision made?

Mr Curry: No.

The CHAIRMAN: Are you a commissioner for Aboriginal planning under section 80 of the Aboriginal Affairs Planning Authority Act?

Mr Curry: That is correct, yes.

The CHAIRMAN: You know the objects of the Act. A matter that has concerned me is that one of the major aspects of your department is to stand up for Aboriginal people, and there is specific reference in your Act to allowing people management of their futures, their lands and so forth.

Mr Curry: That is correct.

The CHAIRMAN: Do you see an inconsistency between your duties as a commissioner for Aboriginal planning and what happened with respect to reserve 43131?

Mr Curry: No. I believe that the sentiments behind the directions that were taken with that reserve were based on achieving the best outcomes possible in what was a difficult situation for women and children particularly on that site. That is a sentiment that has been shared by everybody.

The CHAIRMAN: Did you feel that you had a role as an advocate, not as the judge? Do you see the different roles that each department has to advocate for its particular constituency, and in the end somebody makes a decision based on the contrary arguments? Was anybody arguing the contrary argument that perhaps Aboriginal people should not be removed from their land?

Mr Curry: If I might just be clear about the position I took in that process. Following the advice that was given to the Premier at the Strategic Management Council, there were then three meetings that occurred and they are well documented. The first of those meetings was really to look at what is this problem we are dealing with. You can well and truly appreciate the anxiety in the Premier's office about having a director general or all directors general basically saying we were very unsure about the safety of the women and children at that site. As the discussions progressed my concerns arose around process issues and it is, in my view, unfortunate that the minutes of those three meetings were not kept. I think for Aboriginal people in particular anything that removes the right of judicial appeal or denies natural justice is of concern. Those matters were raised by me. You will find that in earlier discussions or briefings put to the then Minister for Aboriginal Affairs, Alan Carpenter, on his views about the revocation of the management order, we did put a brief to him to say that if you proceed along that line - that was at that stage talking about the revocation of an order, not removing people from the site -

The CHAIRMAN: Which is very different, as a process, from using an Act of Parliament.

Mr Curry: Very different indeed. Our views to him - and they were my views - were that we had to be particularly cautious.

The CHAIRMAN: Was that because you were worried about Mr Bropho taking you to court?

Mr Curry: Mr Bropho was not my concern. I have particular views about Mr Bropho, which I think do affect my judgments, but I think that is a judgment that we all have to make. No, my view was about process. In that process, if those matters were not addressed by government, my intention was to make sure that government did understand that they were matters it needed to take account of; they were raised by myself at that meeting and formed part of the discussion.

The CHAIRMAN: Did you argue it vigorously?

Mr Curry: I certainly put those views, yes.

The CHAIRMAN: Who was contrary to you on that?

Mr Curry: To my knowledge, nobody. At the end of the day, I think at the third meeting, there was a particular discussion. I know Lynsey Warbey returned with not a draft of the Bill but the scope of issues that would be in the Bill, and one of those was the issue about how government would proceed with denial of natural justice; that is section 8 of that Bill.

The CHAIRMAN: You understood at that stage that that was going to be included?

Mr Curry: Yes.

The CHAIRMAN: Did you protest vigorously about that?

Mr Curry: No. My view has been known. That was a decision that was made outside of that meeting. I might add that it is also important to understand that I think there were some areas in this which were untested in law, which was the advice that I was being given by my legal people. There was also the view that in shaping this we were to some extent breaking new ground. That had to be a matter for State solicitors to provide advice to government on.

The CHAIRMAN: You say you have read Mr Joyce's evidence. Have you also read Magistrate Gordon's evidence?

Mr Curry: I have.

The CHAIRMAN: Did you see her views on what the impact on Aboriginal people would be with the closure of a camp such as this?

Mr Curry: My reading of Magistrate Gordon's evidence was that she presented it very much from a personal point of view from her own childhood experiences. I think it would be very reasonable for any Aboriginal person to have sentiments that would be a vote when we are talking about removing people from what is essentially a place where they live.

The CHAIRMAN: The role of your department and your role as commissioner is to represent Aboriginal people's sentiments, is it not?

Mr Curry: That is true, but my view was - and I stick to it very firmly - that that place was unacceptable in the form that it was at that time.

The CHAIRMAN: Did you put forward that view, not only about removing natural justice, but also that removing people from their land at all was a problem so far as Aboriginal people were concerned? Did you put that view forward?

[10.20 am]

Mr Curry: Not in strong terms, no.

The CHAIRMAN: Do you think you should have?

Mr Curry: It is an issue that was discussed. You can imagine that at that meeting you had people like Mr Gooda attending. My view is that it was a matter, we said, that was controversial. It was not going to be an easy fix. It was something the Government was embarking on that would evoke strong feelings from people. Quite clearly, that was discussed.

The CHAIRMAN: It seems that one of the main jobs of your department is to put forward the views that Aboriginal people themselves may not be strong enough or able to put forward; to be their advocate and to put the Aboriginal point of view. It seems that you did not argue very vigorously that particular point.

Mr Curry: I disagree with that. The view that we were trying to put forward was that Aboriginal people on that camp site were disempowered of the capacity to make a view. All the evidence that I had or the opinion I had through the history, the coroner's report and advice from DCD was that there was -

The CHAIRMAN: Let us just deal with -

Mr Curry: If I can just finish, Mr Chairman, there was also the issue of the media having evidence of particular abuse. My view is that those views were not coming up; people were not free to express them. The fact that there was governing body with a particular individual at the helm controlling the right of the people to have their views was the issue as far as I was concerned.

The CHAIRMAN: I will now go back to some of those things you have just said. I perhaps should take you back to the transcript from your previous hearing, which states -

I commented to the Premier that, in my view, agencies were doing all they possibly could
...

Did you volunteer to the Premier the information that the agencies were doing all they possibly could?

Mr Curry: The Premier asked what was going on; what was the status of the Swan Valley Nyungah Community. My advice to the Premier was that the directors general had resolved to put advice to the cabinet standing committee on social policy reflecting our unanimous concerns that the safety of the women and children on that site was of concern to us. On that basis, I could not give him the assurances that he would want - that anything really had changed - even though agencies were doing all they could within the limits they could in relation to access.

The CHAIRMAN: You use the word "unanimous". We looked at that, and it appears to be that you were the only person recommending closure of the camp.

Mr Curry: I never recommended closure of the camp.

The CHAIRMAN: I think your view is shown in the transcript. We will go on with that -

Mr Curry: I think, Mr Chairman, you will be referring to part of the discussion on those three meetings.

The CHAIRMAN: No, that is my understanding of the CPS minute, or whatever it is called, but we will leave that for the time being and come back to that when we have found it. You said in the transcript -

... but there was still, in my view, a considerable risk to the women and children on that site.

Mr Curry: Yes.

The CHAIRMAN: Was that the view you conveyed to the Premier?

Mr Curry: Yes.

The CHAIRMAN: We have investigated it and our view is that the agencies were doing nothing. On closer examination, would that disturb you if we were to find out that the agencies were doing nothing? For instance, your agency had not been out there, had it?

Mr Curry: To the Swan Valley Nyungah Community?

The CHAIRMAN: Yes.

Mr Curry: We do not need to go there.

The CHAIRMAN: Do you know how often DCD went out there?

Mr Curry: I have heard on occasion about 10 times.

The CHAIRMAN: Prior to the decision, it was six times, and it sent out different people each time.

Mr Curry: But its contention was that it could not get access.

The CHAIRMAN: We have had a look at that one too, and that is also nonsense.

Mr Curry: I cannot account for how DCD explains it, but my view was that the advice it was giving was credible.

The CHAIRMAN: Therefore, you had no personal knowledge or there was no information from your department and you were relying on what you had been told by DCD?

Mr Curry: I was aware of the advice that Mr Pedler was giving me of concerns that he was having in organising an arrangement with the management of that camp to get agencies onto the site, and he was going nowhere with it.

The CHAIRMAN: I am putting that to you because the committee will be indicating that the department has really been doing nothing.

Mr Curry: I think the counter to that is that it could not do anything; it was trying to but it could not get access.

The CHAIRMAN: I think the committee will also find that the question about access was also nonsense, certainly after the Gordon report. The transcript continues -

On 2 May the Department of the Premier and Cabinet convened the first of three meetings to begin to talk about what should be done, given the sense of urgency arising around the Swan Valley Nyungah Community.

What is this sense of urgency?

Mr Curry: That is the sense of urgency that I, in part, would have contributed to. I do not step away from that at all.

The CHAIRMAN: How did you contribute to that?

Mr Curry: If you were the Premier, as I said in my evidence before, and asked me a direct question, and you had just invested \$75 million of public money into dealing with these sorts of matters around the State, and a director general says, "Well Premier, I really cannot assure you that things have changed at all -

The CHAIRMAN: So did you say that on the basis of what was said to you by Ms Brazier?

Mr Curry: Words to that effect, yes.

The CHAIRMAN: So it was not from any knowledge from your department but from what Ms Brazier was saying?

Mr Curry: Ms Brazier, Mr Daube and Mr Joyce; all directors general at that directors general meeting. Let me be clear about that. Every director general at that meeting - the Gordon implementation committee - was of a clear mind and resolve that the cabinet standing committee should be advised of the concerns they had, and that was a unanimous decision. Nobody in that process said, "No, do not do that, I have a contrary view." I can also certainly assure you that over the progress of those three meetings that we had post the standing committee, no director general spoke against the resolve.

The CHAIRMAN: Very good. When you spoke to Mr Jameson, do you remember talking about him becoming the administrator?

Mr Curry: Absolutely.

The CHAIRMAN: Have you read his evidence?

Mr Curry: I have, yes.

The CHAIRMAN: Do you recall what he said about what you said to him when you rang him?

Mr Curry: I would need to have that in front of me.

The CHAIRMAN: He mentioned one of the reasons he needed to be appointed urgently was that they had been receiving adverse publicity in the media. Was that in any way -

Mr Curry: No, my recall of the context of that discussion was that Mr Jameson impressed me significantly on his understanding of the range of issues involved in taking over as administrator. One of the things he did not like in that role was interference from the Press. He did not want a media circus. He raised a question about what had been happening up to that point in time. My answer to him was that it had been a media issue on and off in various forms, that there had been comments about closure and comments about the welfare of the children in the camp, and that I was certainly aware that there was an issue that Colleen Egan had particularly taken an interest in pursuing, an active interest in that community.

The CHAIRMAN: Are you saying that it came from him rather than from you?

Mr Curry: I think it was most probably his interpretation. It is very difficult to recall, but it was not to say, "We have an alive, urgent media issue which I want you to come in and deal with."

The CHAIRMAN: I understood his evidence to say that -

Mr Curry: No, that is not the intent I tried to convey.

The CHAIRMAN: You mentioned Colleen Egan then. I think you mentioned the examples that the journalists had come up with. Is that journalist to whom you are referring Colleen Egan?

Mr Curry: As I understand it now, yes.

The CHAIRMAN: Was your understanding that a journalist had come up with further allegations?

Mr Curry: I had a call from Ms Warbey, which said that the Department for Community Development had had an inquiry from the media about possibly further abuse of children on the site, and did I know anything about it. My answer was, "No, I do not. I have had no contact with the media, and I never had any contact with Colleen Egan on this matter." However, I was aware that she was interested, and I am aware that she was referring to specific cases that she was aware of through her contacts with the community."

The CHAIRMAN: Have you assumed that those cases were real cases and not just gossip?

Mr Curry: I cannot tell you anything more than that. I have no evidence of those cases at all.

The CHAIRMAN: As far as you knew, she had rung up but you did not know whether she was retailing gossip or retailing real cases.

Mr Curry: That is all that I knew at that time.

The CHAIRMAN: It seemed that everyone worked on the basis that she was retailing real cases.

Mr Curry: The impression I got very clearly was that she had real cases. I got that certainly from Mr Gooda, who had close contact with Colleen Egan, and he was expressing considerable concern - I would almost go as far as to say advocating that government needed to do something.

The CHAIRMAN: Would it concern you if you were to find out that she had in fact not said that she knew of real cases?

[10.30 am]

Mr Curry: I have read her evidence and I know that she has not disclosed those specific cases. I am not too sure whether she is hiding her sources or whether she is reneging on that understanding.

The CHAIRMAN: We think we know the source. That is one thing I think we have found out, Mr Curry. Generally speaking, we have found out that one source is a notorious unreliable gossip. Would you be concerned to find that out about the person who has supplied information to everybody?

Mr Curry: I would have to answer that in context. If it was a one-off event, certainly. I think when things begin to get some momentum and the media is interested in a story, from my experience, particularly in areas such as indigenous affairs, there is always a lot of rumour and

innuendo that floats around and it is sometimes very hard to understand what is real and what is not. From the advice I got from Mr Gooda, I felt that he was certainly aware of a particular case in which he was particularly interested in supporting the lady involved and her children. To me it was not gossip.

The CHAIRMAN: If you were now to find out that it was gossip, would that concern you?

Mr Curry: If I were to find out that it was completely without foundation, obviously - anybody would.

The CHAIRMAN: Might you take a different attitude to that which you took?

Mr Curry: I do not think so, because the other did not rely solely on media. In fact, the media was of less interest to me than what was happening with the advice I was getting from our local service providers.

The CHAIRMAN: Do you know where he was getting his information from?

Mr Curry: Who is that?

The CHAIRMAN: Your local service provider.

Mr Curry: Mr Pedler? Absolutely.

The CHAIRMAN: Where was he getting his information from?

Mr Curry: His information was based on dealing with the range of agencies that were trying to have contact with that -

The CHAIRMAN: You do see the problem, do you not? It appears that nearly everybody was relying on one source and that that source was unreliable. We have tracked it down, Mr Curry.

Mr Curry: I am not referring that Mr Pedler was responding to media.

The CHAIRMAN: No, I am not talking about that at all. We are saying that one person was vigorously involved in developing rumours and that that person is notorious for doing so and is unreliable. We have followed the facts down and it appears that that person is unreliable.

Mr Curry: I cannot comment on that.

The CHAIRMAN: But would that worry you?

Mr Curry: If you said that one person in any circumstance - not just this circumstance - was maliciously fabricating -

The CHAIRMAN: I do not know whether it was malicious.

Mr Curry: I would presume it would have to be malicious in some way.

The CHAIRMAN: There is another reason.

Mr Curry: Okay. Well, if he or she were fabricating a story to achieve an outcome, of course it would be of concern.

The CHAIRMAN: I will read you Mr Jameson's words again. I do not get the same slant as you did. I should allow you the opportunity to comment on them. Part way down page 3 of his transcript it reads -

He told me that a job was available in which the Government had identified a series of issues of concern. There was a concern of safety for children, he said, at the time.

...

There were some official inquiries that had gone on before and the problems had not gone away. Despite the Government's best attempt to try to remediate them, things were just getting worse with the publicity that the Government was getting and the issues in *The West*

Australian. He sent some of those clippings to me to give me some background after that. He said that I might like to consider whether I wanted to take on the job.

It further reads -

I think I spoke to him again the same day after I had read the clippings from *The West Australian*.

Looking at that, I get a different impression from the one you get as to how it came up. Could you be thinking of the second conversation when he raised the question of not wanting to be involved with the media?

Mr Curry: I cannot answer that exactly. Certainly it was an issue that was raised, whether it was the first or the second.

The CHAIRMAN: My reading of what he said gives me a slightly different interpretation from what you said. I read it as saying that you raised it and that that was one of your concerns.

Mr Curry: I said that Mr Jameson in my view -

The CHAIRMAN: Rather than explaining it, I read it that way, do you disagree with me?

Mr Curry: You are saying that I raised the issue of media concerns?

The CHAIRMAN: Yes.

Mr Curry: I am saying that in a conversation that occurred, I cannot remember whether it was me or Mr Jameson. However, what I do recall is the precision in which he identified a range of issues that he wanted me to specifically address with him, and media coverage was one of the those matters.

The CHAIRMAN: You talked about these things coming from a journalist. Was that raised at the Strategic Management Council?

Mr Curry: Yes.

The CHAIRMAN: What were the allegations?

Mr Curry: Sorry, no not the Strategic Management Council.

The CHAIRMAN: What was said at the Strategic Management Council?

Mr Curry: Nothing more than the Premier asking in other business items - it was the last matter discussed - what was happening with the Swan Valley Nyungah Community and where we were at with it. I think Mr Wauchope deferred to me and said Richard Curry and Jane Brazier should answer that. I answered as you already know.

The CHAIRMAN: At that stage was what was said by the journalist raised? Did it come up?

Mr Curry: It was not a matter on my radar at all.

The CHAIRMAN: When did it come up?

Mr Curry: It became very clear to me that it became an issue during the three meetings that took place.

The CHAIRMAN: You cannot remember which meeting -

Mr Curry: I think the first. I think it was clear.

The CHAIRMAN: What allegations were raised at those meetings? Can you recall their details?

Mr Curry: Only that a journalist was pursuing a line of inquiry in which he or she had evidence, or would refer to specific cases, and that a story was imminent and that they were going to Press.

The CHAIRMAN: Were you told whether that story had been held off for the time being?

Mr Curry: The first meeting was on Friday the second. My understanding was that publication was likely on the Saturday.

The CHAIRMAN: Were you told that it had been held off?

Mr Curry: I was aware that that the Premier's office was keen to defer the story - to hold it off, yes.

The CHAIRMAN: Was it mentioned to you that if a decision could be made the person could be held off from getting an exclusive on it?

Mr Curry: No, that was not part of our discussion.

The CHAIRMAN: Back to page 3 of your transcript, which refers to legislation. You were asked who shifted it to legislation and whose idea was it. You replied -

I think it was a collective decision. I do not think that any one person specifically said that we will take a legislative approach. I can just qualify that a little. Clearly, my advice was strong in that process.

We have come across that word "strong" in other evidence. I take it you have read the evidence of some of the DCD people?

Mr Curry: I have read all the evidence.

The CHAIRMAN: That is very helpful. I refer to the community audit. Roley Bayman said that the instructions for the conducting of that were given by you. Is that correct?

Mr Curry: I can clarify that for you. I was contacted on 2 December by Ms Warbey and advised that I would be required to convene a meeting of appropriate government agencies to do a - the words she used at that time were a visual scan - of the Swan Valley Nyungah Community. I was required to convene that meeting the next day with a view of the audit, as you call it -

The CHAIRMAN: What do you call it? We have had it called everything from raid to audit.

Mr Curry: Audit is a word that came into common terminology. Its meaning is some form of a check. The audit was to occur the following day - so three days. That is how it came about.

The CHAIRMAN: It was a direction.

Mr Curry: It was a complete direction from the Premier's office.

The CHAIRMAN: You were not told whose direction it was? It just came from Ms Warbey.

Mr Curry: No, Ms Warbey was clear that it was from the Premier.

The CHAIRMAN: Were you the most senior person there?

Mr Curry: Yes.

The CHAIRMAN: Was anybody remotely near your degree of seniority?

[10.40 am]

Mr Curry: Yes, Mr Lex McCulloch who is virtually the 2IC of DCD. There were senior health officials there; I am not too sure where they fell in the scale of things. One was a medical practitioner.

The CHAIRMAN: But you were clearly the most senior.

Mr Curry: My remit was to convene the meeting and organise the key stakeholders to participate in it.

The CHAIRMAN: Mr Roley Bayman says about that that the instructions were that he was the main person with the statutory powers. Is that correct?

Mr Curry: DCD had the lead responsibility in the audit, yes.

The CHAIRMAN: You instructed him to be “strong”?

Mr Curry: What does that mean? What does he mean by that?

The CHAIRMAN: You tell me; it is your wording: “Clearly my advice was strong in that process.” Did you tell him to take a strong attitude - no nonsense?

Mr Curry: It was not negotiable that the audit would not take place. The audit would take place.

The CHAIRMAN: It was not a question of saying: do you mind if we come and have an audit or chat?

Mr Curry: That is right; it was not an option of whether it will or will not occur. When I received the direction from Ms Warbey I contacted all the appropriate directors general at that level and told them it is something we must do; I asked for their most appropriate and senior people at a meeting the next day.

The CHAIRMAN: So you did okay it through the other directors general?

Mr Curry: Absolutely; yes.

The CHAIRMAN: You considered it the proper way to go?

Mr Curry: Of course it is.

The CHAIRMAN: Whether the word “strong” was used or not, the impression you created was to not take any nonsense - get it done.

Mr Curry: The direction from the Premier. They were the words Ms Warbey used.

The CHAIRMAN: You communicated that?

Mr Curry: No, Ms Warbey did at the meeting. In the papers there is a copy of the process that was used in terms of what we were going to do. The minutes of the meeting I held the next day show that it was to look at the scope of issues; they are documented. At the meeting with the agency representatives, Ms Warbey gave an overview - a brief - of what it was all about. Similarly, on the day of the audit, at the Beechboro school where we convened, her very clear instructions were that this was a direction from the Premier. This was not something that we would negotiate on. The Premier wanted very clear and accurate advice about the conditions and what was happening on the camp.

The CHAIRMAN: As it turned out on the day, the media turned up. Was that intended?

Mr Curry: Not by me, it was not.

The CHAIRMAN: Had the matter come to your consideration, would you have tried to avoid it?

Mr Curry: I can clarify that this was driven out of the Premier’s office. I would have had no control over any media whatsoever. It is quite clear that anything to do with the media was the responsibility of the Premier’s office.

The CHAIRMAN: I understand that but you are the person who has the responsibility of looking after Aboriginal people. You are the most senior person in charge of this. Had the matter come up, what would your attitude have been?

Mr Curry: No media; it would have been counterproductive to the whole process.

The CHAIRMAN: Do you have any idea of how they got to learn about it?

Mr Curry: No, I cannot give you a definitive answer other than to say that this was driven by the Premier’s office.

The CHAIRMAN: Do you have any reason to think it might have been through the Premier’s office?

Mr Curry: I cannot imagine where else it could have come from.

The CHAIRMAN: You have no evidence?

Mr Curry: Not one way or the other, other than to say that it was clear from our discussions that the media would be handled by the Premier's office. That was clear.

The CHAIRMAN: Okay. I think Bayman said that he was told there would be no media.

Mr Curry: Whether he was told there would be no media, we certainly did not want media coverage of it. We did not want agencies going back and arranging some sort of media statement. That was clearly going to be the responsibility of the DPC.

The CHAIRMAN: The DIA submission states that you prepared a briefing note to the Premier in conjunction with Ms Warbey on the outcome of the audit. We have tried to get hold of a copy of that but Ms Warbey says that that briefing note was not, in fact, prepared.

Mr Curry: That is most probably correct. Following the audit the people reassembled at the Beechboro school. There was a discussion about what they found, their impressions and their views. Ms Warbey took notes on that and the assumption was that she would write that up to be circulated back to people to make sure that it was an accurate record and then progress that through to the Premier's office. I never saw that materialise. As part of that discussion in the debriefing and the accumulation of the material, the DIA did not prepare a briefing paper on that.

The CHAIRMAN: How did it get into your submission, as a matter of interest?

Mr Curry: I think it was most probably because we were part of that process. We had a central role in that.

The CHAIRMAN: It seems strange that you had the central role, rather than DCD, in the audit.

Mr Curry: DCD had the central role -

The CHAIRMAN: In the audit but you had the central role in the organising.

Mr Curry: In the coordinating. The Department of Indigenous Affairs has a very loose remit, which is this notion of coordination.

The CHAIRMAN: In other words, they are not very efficient at that. This is a private session.

Mr Curry: Who are you saying is not efficient?

The CHAIRMAN: DCD.

Mr Curry: They would not have seen it as their responsibility. It is clearly ours to do that.

The CHAIRMAN: Okay. Yours is a coordinating agency really rather than being a primary service agency.

Mr Curry: Absolutely.

The CHAIRMAN: During the three meetings the idea of shutting the camp became clear. You were not told at the strategic management council to shut it, were you? You were told something about finding solutions.

Mr Curry: It was never my view to shut it.

The CHAIRMAN: Whose view was it?

Mr Curry: I had a view for some time prior to this matter when Minister Carpenter was talking about the revocation of the management order. The concern I have, which I hold strongly - there is the word "strongly" again but I do hold it - is that the problem in the camp is Robert Bropho: the control he exercised, the intimidation he exerted, and, in my view, the abrogation of his responsibilities to manage the community for the betterment of Aboriginal people. Agree with that or not, that was my central concern. My view was that the management regime needed to be removed. I proposed to the then minister that one thing that might be considered along those lines

is that the management order could come to the AAPA and myself as the commissioner could virtually administer the camp. That never went any further.

The CHAIRMAN: It did.

Mr Curry: In the sense -

The CHAIRMAN: That is what the Act did - it vested the management in you.

Mr Curry: It vested the management in the minister.

The CHAIRMAN: No, it vested it in you.

Mr Curry: The minister was the AAPA; I am not the AAPA.

The CHAIRMAN: I thought you were the commissioner.

Mr Curry: I am the commissioner and the minister can delegate to me if he wishes.

The CHAIRMAN: He is the corporate body.

Mr Curry: He chose, by contract, to engage Mr Jameson. In my view, the strategy was to change the management regime in the Swan Valley Nyungah Community. It was not about evicting people or closing down the camp. That is not something that was even in my thoughts at that time.

The CHAIRMAN: That is interesting because what you said was reflected in the amendments made by the Legislative Council.

Mr Curry: I am aware of that.

The CHAIRMAN: Would you have supported that?

Mr Curry: I had no opportunity to comment on those whatsoever.

The CHAIRMAN: No, but would you have?

Mr Curry: I would have urged government to give strong consideration.

The CHAIRMAN: But you were not consulted?

Mr Curry: No. You are aware of the reasons the Government did not wish to progress those.

The CHAIRMAN: What are they? I would love to know.

Mr Curry: My understanding of it is that the amendments proposed allowed the opportunity for the intention of the Government to act to be frustrated by Mr Bropho.

The CHAIRMAN: There were further amendments to suggest that it stopped any interim injunctions.

Mr Curry: I will not go into technicalities, but that was the general feeling.

The CHAIRMAN: I understand generally, but whether I agree with it, I do not know.

It is interesting that you did not want it shut down, nor did Ms Brazier. Who did want it shut down?

Mr Curry: I think the turning point for that came at the second meeting. At the first meeting my view was that we could not proceed with the discussion without representation from the Aboriginal community. I recommended that ATSIC be invited to the next meeting. At that meeting, my very clear recall of Mr Gooda's advice was that he believed it should be shut down; and I do believe that was advice the Government took strongly.

[10.50 am]

The CHAIRMAN: So it was not your advice and it was not Ms Brazier's advice; it was Mr Gooda's advice?

Mr Curry: I am saying that is my recall - my clear recall. If you looking for a turning point in my view, Mr Gooda - and I have read his evidence as well - indicates at that time that ATSIC had

released its family violence policy. He believed he had the authority to give that advice given that it was a policy matter for ATSIC. My sense of it was that he was very keen to see that this advice - this policy - had some teeth and that ATSIC could influence decisions by State and Territory Governments, and that is what he said. There were no minutes, regrettably, and I do not take notes at these things, but it was my very clear recall, if you are asking me to find a turning point -

The CHAIRMAN: That is exactly what I am asking.

Mr Curry: That is when it was.

The CHAIRMAN: It seems strange to me that the two senior bureaucrats with responsibility for this area, which I would have thought were you and Ms Brazier, are both against its being shut down, yet it ended up being shut down. How vigorously did you argue your point of view?

Mr Curry: Both Ms Brazier and I - I will speak only for myself - were of the view that this was really moving into some territory that we had not entered into before. I can example that by the fact that when the assignment fell to me to find an administrator, I had no idea where I would find such an administrator. This was the work that was normally done by the Registrar of Aboriginal Corporations. This was something that I had not done before, and we were going to have to do most probably a whole range of things that were not -

The CHAIRMAN: Can we go back to the question that I asked. How vigorously did you argue the point that it should not be shut down?

Mr Curry: To the point of saying that if that is the direction in which we are going to go, there are many things that I still do not have answers to. I did not know what might happen as a result. I will give you an example. One consequence that has occurred with this is that Mr Bropho has lodged an appeal in the federal jurisdiction - in the Federal Court. That does create complications, because if the Federal Court makes a decision that is unfavourable to the actions of government, it poses a question. It is one thing to make a determination to act in a particular way. It is another matter to have all the information. What I was saying would have been on a slightly different tack from Ms Brazier, I would have thought, in the sense that Ms Brazier would have been focused on her requirement to facilitate outcomes with the families themselves and to engage with them, given that her advice is that they had had very little opportunity to do that in a meaningful way. Mine was really about thinking through carefully what the practical implications of the implementation of this decision would be, because that was going to fall to me.

The CHAIRMAN: I again come back to the question. How vigorously did you put your view forward?

Mr Curry: Other than make those views known -

The CHAIRMAN: You did not say, "This is outrageous. I do not think we should be closing the camp. This seems to fraught with difficulty and I do not like it"?

Mr Curry: No, and I think in fairness to the Government that the directors general around that table were of the view that if it was the will of the Government to close it down, that was not necessarily a bad outcome. My view was that there were some implementation issues and things that needed to be thought through.

The CHAIRMAN: One of the things that struck me as a bit unusual about these meetings is that they were not chaired by a director general. They were chaired by a ministerial officer.

Mr Curry: They were chaired by Mr Walsh.

The CHAIRMAN: Did that strike you as an unusual situation?

Mr Curry: Not from the Premier's office, no. I frequently attend meetings - perhaps not with this level of intensity, I might add - that have been chaired by ministerial officers.

The CHAIRMAN: Are you aware of section 74 of the Public Sector Management Act?

Mr Curry: I am aware of the Act, but you might need to refresh my memory of that section.

The CHAIRMAN: That is the section that says that ministerial officers are not allowed to give directions to public servants.

Mr Curry: I think Mr Walsh covered that in his evidence when he described it as a discussion rather than a formal meeting, and I think - I suspect - that is why no minutes were taken.

The CHAIRMAN: You can see that a fine line can be drawn between pushing something along on behalf of the Premier and actually telling people what to do.

Mr Curry: Absolutely.

The CHAIRMAN: My concern is that there might have been a different result had it been chaired by one of the directors general; for instance, you.

Mr Curry: There might well have been, yes.

The CHAIRMAN: Was Mr Wauchope present through all of this?

Mr Curry: Mr Wauchope was present, from my recall, at the first meeting, but he did not attend subsequent meetings.

The CHAIRMAN: Would you not have expected him to chair it, as he is the most senior director general?

Mr Curry: As a meeting of directors general I would have thought so, yes.

The CHAIRMAN: But he did not.

Mr Curry: No.

The CHAIRMAN: Who gave you the instructions to contact Mr Jameson, or was that something that you initiated?

Mr Curry: Following the meeting that Mr Gooda attended, and when the idea of the legislative response emerged, it became clear that there would be a role for an administrator, either someone appointed within government or contracted by the minister. As I mentioned to you earlier, that rang an alarm bell for me, because you would be aware that the intention was to progress this matter quickly through the Parliament. For me to negotiate a person with the competencies required to deal with -

The CHAIRMAN: You were not told to go find an administrator. You worked out that you would need one and you went and -

Mr Curry: An administrator would be required.

The CHAIRMAN: You realised that because it was under your Act you would be doing it?

Mr Curry: Absolutely. That was discussed on the final day when Ms Warbey gave a brief overview of what the Bill might look like it, and it was clearly referred to as an administrator.

Hon ROBIN CHAPPLE: Who actually provided you with the name of Mr Jameson, or where you might find such an administrator? Was it Mr Gooda?

Mr Curry: Yes. Even at the meeting I would have raised with Mr Gooda - again, this goes to my issue about the implementation of this - where am I going to find an administrator at very short notice who can deal with this situation, and Mr Gooda replied along the lines that this was something that was not uncommon to Aboriginal communities, because ATSIC had on many occasions had to deal with issues like this in communities and had appointed administrators. He indicated to me that he could make contact with the Registrar of Aboriginal Corporations to seek a suitable name, and he did that. I think the registrar then suggested Barry, or rang Barry Jameson, so Barry Jameson was made aware through that process that I was interested and was made aware of the fact that I would contact him a couple of days later to discuss the arrangements.

The CHAIRMAN: I turn now to some comments that you made in your transcript. You say at page 5 of your transcript, in the first paragraph -

The concerns I personally held were, in my mind, very serious.
They were personal concerns, but they were not from personal knowledge, I take it.

Mr Curry: Yes.

The CHAIRMAN: You say in the next paragraph -

I believe that the governance of that committee was still manifestly corrupt.
I take it that there you are referring to good governance rather than corruptness in the sense of removing money or anything like that?

Mr Curry: Yes, managing the community.

The CHAIRMAN: There is no suggestion that they were defalcating in any way?

Mr Curry: No. I meant in managing the objects of their incorporation.

The CHAIRMAN: You also say in the same paragraph -

There were a range of very express concerns relating to specific cases, particularly through the Department for Community Development.
Were you told what those particular cases were?

Mr Curry: Jane Brazier had alluded to those verbally at the directors general meetings.

The CHAIRMAN: It was generally an allusion to particular cases, not “these are the cases”?

Mr Curry: Ms Brazier was very clear that they were dealing with areas of very specific concern, and without breaching the confidence of those cases was saying that these are the situations we are dealing with.

The CHAIRMAN: So you relied on her?

Mr Curry: Absolutely.

The CHAIRMAN: You then say -

My view was that since Gordon nothing had changed; this was becoming nothing more than a window-dressing exercise and really wasting time.
We have heard from other witnesses who have said that there have been major changes since Gordon. Have you read the evidence of those witnesses?

Mr Curry: You would have to point it out to me.

The CHAIRMAN: One of them was Sergeant Clarysse.

[11.00 am]

Mr Curry: Yes, I have read his evidence carefully.

The CHAIRMAN: He said that there had been a major change in access after the Gordon report.

Mr Curry: Without being critical of Sergeant Clarysse, my view is that he had a particular relationship with the Swan Valley Nyungah Community management. I think he showed in his evidence a very poor appreciation of the difference between a policing role that he may have exercised and the requirements of a child protection officer investigating a child protection case. It is very clear. When Mr Bropho was asked what his views were of Clarysse, his views were that he was all over the shop and he was hot and cold one day. The impression I got was that Sergeant Clarysse had a useful working relationship with the Swan Valley Nyungah Community; that is, he could get access. However, Bropho’s evidence also indicates that when the police arrived at the

gates to do business, he would decide who would get access and who would not. I would say that Clarysse had access. He presented a view that, for him, he had a good working relationship.

The CHAIRMAN: Before you go on too far, you are giving your interpretation of his evidence. I am asking you your knowledge.

Mr Curry: My knowledge? In which way?

The CHAIRMAN: What did you personally know about the situation since the Gordon report?

Mr Curry: I was aware of what Ms Brazier was saying.

The CHAIRMAN: However, did you personally know anything?

Mr Curry: Through my regional manager, I did, yes.

The CHAIRMAN: You relied on Mr Pedler.

Mr Curry: Absolutely, although not just Mr Pedler. We also have in our office Aboriginal staff who work at the Department of Indigenous Affairs and they are very good agents of information for us.

The CHAIRMAN: At page 6 of the transcript, you are reported as saying -

It is difficult for me to do that, because the information that comes to us generally comes anecdotally. I could give you the names of two or three people who specifically have referred to me, but I find that difficult in the sense that that information is given the strictest of confidence -

Who are those people?

Mr Curry: I have given you the names of those people in previous evidence.

The CHAIRMAN: We did not get that in the private evidence. Who were they?

[Private Evidence]

The CHAIRMAN: We have that. Thank you.

Mr Curry: To complement that comment, we became aware of a whole range of things about what was happening in the Aboriginal community anecdotally. People will say something to you with a level of concern, but whether they are prepared to step up and back that up with some action or support is not always the case. People will often say something to you with the expectation that you will deal with it, but they do not want to be disclosed as the source of that. It is a matter that is worth noting.

Hon DERRICK TOMLINSON: If you did receive anecdotal evidence, and it was anecdotal evidence of a serious kind, what action would you take?

Mr Curry: We have given you copies of our procedures in relation to dealing with disclosures of child abuse. We would strongly encourage the individual to make that complaint to the appropriate authority - either the police, health workers or DCD. If that person chose not to do that, I would contact the department and say, "We have had a disclosure. I am not able to tell you the specific nature of that, but be aware that there is something going on in a particular community in a particular area" or whatever it might be. We cannot and would never breach confidentiality on that matter, but if a disclosure were made, we would do all we could to ensure that the person could not just leave it at my doorstep, because I cannot act on it.

Hon DERRICK TOMLINSON: In light of your observation that nothing had changed, and that you had received anecdotal evidence even from members of your own staff who were a good source

of information within the Aboriginal community, was any action of the kind you have just described taken on any of the matters that had come to you anecdotally?

Mr Curry: I was reassured that the Department for Community Development was aware of those matters and Ms Brazier had indicated that all the families in that community were being dealt with by the appropriate department.

The CHAIRMAN: At page 9 another comment you made was -

The one thing that differentiates the Swan Valley Nyungah Community from every single one of those communities is access.

Do you still hold that view?

Mr Curry: Yes.

The CHAIRMAN: Do you agree with the suggestion that perhaps other communities have a worse problem of abuse?

Mr Curry: It is very hard to say. What I would say is that -

The CHAIRMAN: It is probably fair to say that you do not know. You probably do not know.

Mr Curry: If you are asking me generally about the levels of abuse, the level of child abuse in Aboriginal communities is reasonably well documented. The susceptibility of women to family violence and of children to abuse ranges from a whole range of systemic causes. The answer to your question is that, as the Gordon inquiry found, the level of abuse is quite significant in communities around the State. However, you also asked that similar question of Hooker, and although he acknowledged that that abuse did exist and that that was evident to the community, he did single out the Swan Valley Nyungah Community as possibly the area of most concern to them.

The CHAIRMAN: Did you have any discussions with Colleen Egan?

Mr Curry: I have never met the lady and have never spoken to her.

Hon ROBIN CHAPPLE: I wish to go back to the statement you made earlier and get some clarification. You talked about the need for the change in management. Why, but not anecdotally?

Mr Curry: I will give you an example. My concern was about Robert Bropho and his sons and the level of influence they exerted. Our problem was that if you were talking to the Swan Valley Nyungah Community, were you talking to a management group or were you talking to an individual? I would describe him as a strong man. I will give you an example. When Mr Jameson went to the community to enact the removal of Bropho, the community was empty; there was nobody there. That was not an action of government. My question would be - it surprises me that this is a matter that you did not pursue in your discussions with Mr Bropho - how did those people leave the community? Was there a community meeting? Did the governance board of that community come together and consider this matter and decide, or was it Mr Bropho who ordered those people off? How did that happen? I do not know.

Hon DERRICK TOMLINSON: When? That was after the -

Mr Curry: At the time of the closure, when Mr Jameson went there, the only people on that site were Bropho, Hayward-Jackson and a couple of others. Where was the governance there? This was obviously a matter that could not have been more important to the community about its future. Where was the discussion?

The CHAIRMAN: You cannot say that there was not any; you just do not know.

Mr Curry: I am asking was it done in a governance sense. Was there a meeting -

The CHAIRMAN: Do you know?

Mr Curry: I do not know. I am surprised that you did not ask him that question. How was that decision made?

The CHAIRMAN: I am not sure that that is within the remit of this committee.

Mr Curry: Given the concerns that people like me are saying about the influence of Bropho, at least a question about what role he played in that would have been useful.

The CHAIRMAN: We will take that on board.

Hon ROBIN CHAPPLE: Discounting that incident, prior to then, obviously the community was well maintained in comparison with any other communities around the State?

Mr Curry: I will respond to that.

Hon ROBIN CHAPPLE: We are talking about the whole issue of management.

Mr Curry: Yes. The administrator raised the issue that he believed that the management order itself provided for a responsibility of the managing body to have a responsibility towards accommodation - the collection of rentals to maintain a revenue stream so that properties are maintained. It is fairly basic sort of stuff. When I visited the community, which was the second day or so of Mr Jameson's presence on the site, in my view probably only four or five of the 13 buildings were habitable. The rest were not just in a poor state of cleanliness; they were wrecked. They were utterly wrecked.

The CHAIRMAN: Do you understand that some of that took place when they were leaving?

Mr Curry: I would contend very strongly that this is an absolute abrogation of responsibility from a management group to ensure that the housing was maintained.

[11.10 am]

Hon ROBIN CHAPPLE: You have been to Cullacabardee, I presume.

Mr Curry: I have been to all of the communities; I know them well.

Hon ROBIN CHAPPLE: I am trying to get at how you considered that the Swan Valley community was a wreck compared with any other communities.

Mr Curry: Because they were uninhabitable - absolutely uninhabitable.

The CHAIRMAN: We could argue this for a long time.

Mr Curry: We could. You asked me about the responsibilities of the management committee. It does have a responsibility, in my view, to ensure that those properties are maintained and that the tenants take responsibility. There was no tenancy agreement in place. On that ground alone that indicates to me that no responsibility was taken by the management committee to manage effectively, as it should do for the betterment of Aboriginal people.

Hon ROBIN CHAPPLE: I want to go back further. You are providing all this evidence anecdotally after the event. You indicated in the lead-up to this decision-making process that you felt there needed to be a change to the management system because it was not a bad idea.

Mr Curry: No, no, no. To change the management not because of my concerns about the management of the property itself but because of the influence of Robert Bropho. It was my view that we were not dealing with a management committee; we were dealing with a strong man who exerted an undue level of influence over a particular community without any challenge whatsoever from within that community or if there was, it was certainly not being represented through the Government. That is a really important point to understand where I am coming from.

Hon ROBIN CHAPPLE: Given that you had not been there, how did you identify this? Was it anecdotal?

Mr Curry: What?

Hon ROBIN CHAPPLE: That there was this level of management and control.

Mr Curry: In all my years I have never had any engagement with the management committee of that site on any management issue at all. Every letter that came to me was from Mr Bropho as the so-called spokesperson for the group. There was never anything that indicated to me we were dealing with - there was no reference to say that the management committee had met and had resolved the following things, which were put to me. In my view, these are the sentiments and views of a particular individual.

Hon ROBIN CHAPPLE: By your own evidence you said you had not been there.

Mr Curry: My department does not go to the Swan Valley Nyungah Community. We have no legitimate reason to go there. None at all. We deal with heritage. Our primary concern - Mr Bropho's primary concern with us, I presume, is on heritage matters.

Hon ROBIN CHAPPLE: I am finding some inconsistencies. If you have not been engaging or have not been involved, how could you come up with a deliberation that Mr Bropho ran or controlled that camp and it was not a committee or a community decision? I have seen a number of letters signed by a whole raft of people on that camp in relation to submissions to your own organisation. Are you saying that that was not the case?

Mr Curry: I am saying it is my view that Mr Bropho is a strong man and acts with authority in that camp, which in my view has been there for many years; it is not a recent phenomenon. I do not believe and have never had a sense that a management committee operates with any level of effectiveness whatsoever.

Hon ROBIN CHAPPLE: Okay.

The CHAIRMAN: It has been pointed out to me, by the way, that that question was raised. I am still trying to find the reference but they say it was discussed with the family before leaving.

Mr Curry: Discussed with the -

The CHAIRMAN: With the family before leaving.

Hon DERRICK TOMLINSON: Robert Bropho gave evidence.

Mr Curry: Is it in his evidence?

Hon DERRICK TOMLINSON: I do not know whether it is in his evidence.

Mr Curry: It is not in the evidence I have seen.

The CHAIRMAN: I do not think it is in that evidence. We have a lot of other documentation.

Hon DERRICK TOMLINSON: On page 15 of the transcript of your hearing, Hon Robin Chapple asked questions about the failed experiment.

Mr Curry: Yes.

Hon DERRICK TOMLINSON: In your answer you said there never was a view that this was a failed experiment. Has that ever been your view?

Mr Curry: I would not use the term "failed experiment". The sentiments of it are that it has not been successful. The ideas of - we simply have moved on in the last 30 years. I think it is somewhat offensive - the fact that Aboriginal people should be congregated into a fringe area provided away from mainstream; all those things you would understand, Mr Tomlinson. We simply needed the Government to revise its policy position on this. That was the intention of looking at these reserves to get an idea of how we could deal with it. I might also add that these four reserves are four of 48 reserves around the State. We are similarly looking at how we can ensure that proper services are provided to those communities.

Hon DERRICK TOMLINSON: However, the Swan Valley Nyungah Community is different from the others in that it has a management order through the Department of Land Information, rather than coming under the Department of Indigenous Affairs planning authority.

Mr Curry: That is correct, yes. It is also my view that it is the best serviced of all the town reserves.

Hon DERRICK TOMLINSON: The best serviced? In terms of physical services?

Mr Curry: Physical services, yes.

Hon DERRICK TOMLINSON: Do you recall during the political debate after the Legislative Council moved to amend the Bill that there was a meeting in the office of the Premier in Parliament House attended by Hon Colin Barnett - the Leader of the Opposition - the Premier, Sean Walsh, you and me. Do you recall the advice you gave to me?

Mr Curry: I think it would have been along the sentiments that these communities were not working and that there was a need for a review. I may have said that in my view they were unsuccessful, but the sentiment I was trying to convey -

Hon DERRICK TOMLINSON: You said that they were a failed experiment and then went on to say why you thought they were a failed experiment.

Mr Curry: I am quite happy to accept that as a comment I may have made. I do not resile from the fact that that would be a term that would not sit uncomfortably with me. I have to say that it is not a term I feel I would have coined but certainly I would not object to it.

Hon DERRICK TOMLINSON: While you say that you did not hold the view that it was a failed experiment, and that the language you used is not of your coinage, the sentiment is one which you would not deny.

Mr Curry: They had not been successful. That is right.

Hon JON FORD: Mr Curry, in your recent evidence you talked about the actions you would take if child abuse had been disclosed through your contacts. You talked also about the protocols or policy within your department. They are to encourage the victims or people who were aware of the abuse - or thought they were aware of the abuse - to report that to an appropriate authority such as the police or DCD or other people concerned with child protection. If that did not happen, you said that if you were aware of it, you would, without disclosing specifics, pass that information on to those agencies. Is that right?

Mr Curry: Yes.

Hon JON FORD: There are a couple of issues I am interested in about that. What inhibits you from disclosing the specifics? If, as an MP doing my job in a community, I became aware of abuse because somebody had disclosed it to me, I would not have a problem with going to the police and telling them what are the specific issues. I am interested in your role as DG and what inhibits you from disclosing those specifics. I will listen to that first and then we can go on.

Mr Curry: Technically nothing inhibits me from making a disclosure. However, if someone comes to me in the strictest of confidence and says he is aware of whatever is happening, it becomes a judgment call. As you would be aware, so much of the area of child protection is based on evidence. I am sure that if someone came to you, as a local member, with a rumour or suggestion that something was happening, you might think twice about someone coming to you with other than direct evidence of some sort that could colour your judgment about how you would proceed. My comments are based on doing that to maintain credibility in indigenous affairs. It happens even in communities where the local schoolteacher and medical officer may be concerned about child abuse: when they raise the matter, the tension between them and the community can be extreme to the point that they may not be able to continue to work in the community. My point is that we treat the matter very sensitively. We do everything we can to support that individual to take

the advice through. If the person is not prepared to give evidence and stand up, it puts us in a hard position: "If you're not prepared to come forward, there's not a lot I can do, other than make the DCD office or the director general of DCD aware that something has come to my attention." It is in that context that I make that statement. Technically, we do not have mandatory reporting in this State. I could say to whomever that I have had disclosure and you need to investigate it.

[11.20 am]

Hon JON FORD: You could make a judgment based on whether it is more important and in the best interests of those people whom you are trying to service not to disclose because you want the information flow. It is easy to be discredited in an Aboriginal community and to have nobody talk to you. My experience has been that all the information dries up. There is no physical impediment to reporting. You hit on the next question I was about to ask. The committee has heard a lot of information based on innuendo and rumour. When pressing down and looking further at the information - we have had a long time to do that - we have found that a great proportion of it is rumour. If it is pushed down even further, it is baseless or it was not related to the Swan Valley Nyungah camp. That was not through your department. Is there a protocol within your department to consider how to deal with the veracity of matters to ensure that you as DG get the correct picture of your service providers in the field?

Mr Curry: That is always hard because I do not have child protection, health or education experts in my department. We deal with information at what might be called a fairly general community level. You can go to a community and speak to one person and get one piece of advice and speak to another person and get contrary advice. We have a lot of information swirling around at any one time about what is going on. That is useful; it is very good to have an idea about the debates that are taking place. When it begins to emerge through health, DCD, housing and other government agencies that there are concerns about a community, say - that is not necessarily the Swan Valley - and our field operatives come back and say a real concern is emerging from a community, our responsibility is to do something about it and collate the information in a particular way. At a local level, we bring together the key stakeholder agencies and say that this information is emerging and bubbling up. We ask the question: what is happening with it? That is translated up to the directors general level. That pretty well happened in this case. Those concerns were out there. The directors general of health and education and others stated that they were hearing similar stories: "Our field staff are sharing the same concerns." They were engaging with the community on a more precise level than we were on their measures, and all the information was consistent. I answer it in that way. It is not always the first wave that crashes on the shore that you have to react to - I accept that. It is important to dig more deeply and understand what will happen. Once you start the process, you have to draw it some conclusion. You cannot leave it all hanging, whether you decide not to proceed or to deal with it in some particular way. The worst thing that can happen is that you knew about it, but you did nothing about it. That is the one thing that is not acceptable to government agencies.

Hon JON FORD: In regard to the heritage issues you dealt with, do you have a protocol to deal with the veracity of claims? They are very important and deal with matters such as land tenure, native title and funding. Are formal protocols in place, or is it again based on people's judgment call?

Mr Curry: On heritage matters, the Government has a well-established process in places. It has a committee called the Aboriginal Cultural Material Committee, which comprises Aboriginal representatives and people from expert areas and disciplines, such as archaeology, anthropology and lands. That committee is responsible for dealing with any application put to it by a landowner who in some way wishes to disturb a site. It is also required to identify and record sites around the State. It does that through a process independent of me. It is a statutory body. It provides advice to the minister, who makes a determination on how to proceed. That process is followed in a formal sense

to identify areas of significance that need to be preserved under the Aboriginal Heritage Act. A second mechanism of appeal is provided through the federal Aboriginal and Torres Strait Islander Heritage Protection Act. Appeals can be lodged through that legislation. This is frequently done by Mr Bropho on all matters on which he does not get a favourable decision on heritage. The federal minister then appoints a recorder to investigate the matter and report to the federal minister under that legislation to determine whether the State has been in breach of its own Act in not acting to preserve sites. We also have a broader remit to attend to the preservation and maintenance of sites around the State. That is not a task we do well as we are poorly funded. We do the best we can to ensure that sites of significance are protected as they need to be.

Hon JON FORD: I am interesting in understanding how you formed your views about the management of the Swan Valley Nyungah camp. In your evidence today - correct me if I am wrong - you said that one of the reasons you developed a view that Robert Bropho seemed to exert nearly singular influence over the goings on in the camp was because the correspondence you received in your role as DG was always from him; that is, it was not in the form of minutes, procedures or resolutions from a management committee. That was consistent, at least in your experience, with your receipt of letters being from Robert Bropho, not the management committee.

Mr Curry: Yes. Nothing in the community appeared to be connected with the process of community decision making or participation in decision making. In my view, Bropho was always running the show. It was Bropho's call. I have been in my business since 1978. I had my first contact with Bropho on that site in 1978 when it was a fringe camp. I have had contact with Bropho and members of his family over many years in my professional business. It has always been my view - I am afraid to say whether it is right or wrong, but it has been developed over time - that I have always in my engagement with that community spoken with Robert Bropho or his agent, primarily, Iva Hayward-Jackson, on matters to do with heritage, and I have never had a sense that the community sits down, makes its decisions and makes recommendations and argues it out and decides the way to go. How I developed my view can be put down to the passage of time. I have never seen anything to the contrary to indicate a good governance process in that community that allows people to have their say and for a majority view to prevail. It was always, in my opinion, the view of one person that prevailed in the camp.

Hon JON FORD: My experience is that some successful initiatives in some communities have evolved from nearly a benevolent dictatorship. I can point to communities that if they did not have a strong individual running the camp, they would not be moving forward. That is seen from place to place. How did you develop the view that this was not a benevolent dictatorship - that it was unhealthy? You are saying it is over a longer period of time. Obviously you have developed the view, not because of the immediate events that led up to either the Gordon report, I am assuming -

[11.30 am]

Mr Curry: Absolutely.

Hon JON FORD: You have said that you have been dealing with Bropho for a period of time; what period of time would that be?

Mr Curry: My contact with the Bropho camp was from 1978 onwards for a period of time when I was in clinical practice as a social worker; then no contact at all, other than on policy matters when I was involved with DCD, the Disability Services Commission and juvenile justice. Primarily they are areas I have been involved in. So, in ways I have had contact with people who were living in that camp in one way or another. More latterly in my role as head of this department and previously as director of policy, contact was almost negligible because of the nature of my job. You are quite right: in Aboriginal communities around this State there are strong leaders. I take a difference between a leadership role and a role which I would view of being almost intimidatory in the way it operates.

The CHAIRMAN: It is almost ex post facto though.

Mr Curry: It is a judgment, I will accept that.

The CHAIRMAN: I have heard the same thing said about some other communities where a very strong person would not have brooked anybody else having anything to do with it and you would say that was a very good community.

Mr Curry: Again I have alluded in my previous evidence about how communities govern themselves. I have often been to communities where you are talking to a very strong vocal advocate.

The CHAIRMAN: Yes, I have read that, but I am saying that I know communities where it is well known that one person made the decisions. They might have gone through the process of talking to other people, but in the end that person announced the decision.

Mr Curry: I would beg to differ in the sense that my experience of dealing with communities is that there always is a process that underpins that - always. I could not name you one community in my view where there is a strong man in the way I would describe Robert Bropho in an almost dictatorial role running a community. If I could, I would give you an example, but I simply cannot. In part of this discussion with me someone mentioned Warburton.

The CHAIRMAN: Not now. There was previously a person at Warburton who made decisions which were accused of being, by some of the other people there towards the end before his death, highly dictatorial.

Mr Curry: The essence is accused by other members of the community.

The CHAIRMAN: Who else has accused Bropho?

Mr Curry: Exactly. My point is that does not come up; it does not happen. There has never been any discussion about it. Those sorts of matters, when they arise, do not come up for people to be able to -

The CHAIRMAN: You do not know.

Mr Curry: But I have never seen it.

The CHAIRMAN: You might not have seen it because you were not there. When would you see it?

Mr Curry: Even in the opening lines of Mr Jameson's report, he does say he was criticised by certain women in Bandyup of acknowledging Mr Bropho as the spokesperson. Those women quite strongly, I think, put Mr Jameson in his place and said, "He does not represent us."

The CHAIRMAN: That is right.

Mr Curry: Wherever has there been anything come up from that community formally in some way of governance for the community to say, "We do not agree"? Do we just accept -

The CHAIRMAN: One of the interesting things is the reason there was an audit by the registrar of Aboriginal corporations is that they put everybody on the management committee.

Mr Curry: They did what, sorry?

The CHAIRMAN: They put everybody on the management committee, and they were told it was too broad and would have to narrow it.

Mr Curry: There were 13 homes in that community. If you treat that as a facility for 13 families, not more than about five of them were occupied.

Hon DERRICK TOMLINSON: At the time.

Mr Curry: And the rest of them were totally unoccupied; they were wrecked. If that land was to be managed for the benefit of Aboriginal people, I would have thought a basic tenet would be to say that we would like to see those homes used by Aboriginal people -

The CHAIRMAN: Have you looked around Cullacabardee?

Mr Curry: I have been to Cullacabardee, I have been to Gnangara -

The CHAIRMAN: Can you tell me how many empty homes there are there?

Mr Curry: There is quite a number of empty homes but they are -

The CHAIRMAN: What state of repair are they in?

Mr Curry: Some of those are not in a good state of repair, but the difference is you have the Department of Housing and Works with a management support program out there maintaining those properties as best it can.

The CHAIRMAN: Constantly, because they keep destroying them.

Mr Curry: But they are maintaining them. They are not letting them fall totally to pieces and they are keeping the facility there.

The CHAIRMAN: The difference is you have a government department that comes around and does the work for you. I am sure Mr Bropho would love to have had somebody come and do the maintenance work for him too.

Mr Curry: But why should he? He has an absolutely first-class facility, purpose built.

The CHAIRMAN: But you said every facility needs to be maintained.

Mr Curry: They have been allowed to fall into an absolute state of disrepair.

Hon DERRICK TOMLINSON: Are we not talking about the difference in the status of the Swan Valley Nyungah camp compared with the other three? The other three are under the auspices of - whatever is it called - the Aboriginal authority; Bropho is not.

Mr Curry: That is right. The ALT lands, where we have a responsibility to do that.

Hon DERRICK TOMLINSON: Yes, exactly; that is the difference.

Mr Curry: The difference is he also - I am not quite at one with you on that. If you accept the objects of the incorporation of the Swan Valley Nyungah Community, it does have a responsibility to provide services for people. Clearly I do not believe it has done that.

Hon DERRICK TOMLINSON: But you cannot compare what is done for the maintenance of Cullacabardee through Homeswest with the maintenance of the Swan Valley Nyungah Community without the access to Homeswest resources.

Mr Curry: But Homeswest has provided roads and a turbine wind power generator. There has been a huge investment of government -

Hon DERRICK TOMLINSON: Yes, that was part of the 1995 agreement.

Mr Curry: That investment was made by government.

The CHAIRMAN: What about your obligation in regard to all the other ones? We have been there and some of them I would say are in a far worse state than is Lord Street. So what? You know and I know that Aboriginal communities are not quite at the peak of perfection when it comes to maintenance, and if you leave it entirely to them, you can expect them not to be quite as good as if they are done by Homeswest. Even if they are done by Homeswest - I walked through Cullacabardee, I walked through Saunders Street and I saw wrecked homes.

Hon DERRICK TOMLINSON: Sydney Road.

The CHAIRMAN: Sydney Road.

Mr Curry: You will find that in a lot of Aboriginal communities where there are properties.

The CHAIRMAN: I know; every community I have been to. I have been to Balgo where I have seen the results of a riot. I have seen the way there is all sorts of protection over windows and doors so that people do not smash the place. This is not an unusual situation. You have not gone up and closed Balgo.

Mr Curry: But Balgo - they are not closed because of the state of the repair of the dwellings at all; not at all.

The CHAIRMAN: You are simply saying that Mr Bropho is guilty of some sort of poor governance because he did not maintain the houses.

Mr Curry: I am saying he is guilty - my view is his style of management of that committee is dictatorial. You may disagree on that but -

The CHAIRMAN: I know you say that, but I am still waiting to hear how you would know from your remote position of not having gone there.

Mr Curry: Everything that has come to me, everything that I have said, and I cannot see even anything in the evidence that I have read for this committee that says the management regime there was one which was participatory, which was open, which enabled people to have their say and which enabled them to influence the future directions of that community. I have seen nothing in any of the evidence that confirms that.

The CHAIRMAN: I think we are starting to argue about it. I would like to make sure that we confine our questions to putting matters to you in your evidence which are not clear or allowing you to contradict things that have been contradicted by other people.

Hon JON FORD: I was sort of getting to that. Over a long period of time you have developed a specific view about Mr Bropho and how he operates. When we move up towards the meetings that occurred post the Gordon report and pre the closure of the camp, you seem to have a difference of opinion in that you would not have liked, I think it is, clause 10 inserted in the Bill, which takes away judicial review and therefore natural justice. You have specifically mentioned clause 10, but it might be clauses 8 and 10, as there are two clauses in the Bill. However, you also said, when you were asked about the Government's move to close the camp, that you did not think that was necessarily a bad thing. In that period of time, I am trying to work out how you got the impression that it was not a bad thing. Is that because the impressions you had were reinforced by perceptions printed in the Press, which seemed consistent with what you were thinking?

[11.40 am]

Mr Curry: I have been around too long to worry too much about what the Press may be saying, other than my responsibilities to the Government in that regard. In my view the Press would not have influenced my decision one way or the other.

Hon JON FORD: What about other directors general?

Mr Curry: I do not think so. Certainly, at that time there was a feeling that a media issue was on the boil about Bropho and the camp, but that was not what was driving the directors general. I can assure the committee of that. The concern was that we collectively were unable to say that we had the level of confidence we would have liked to put to the Premier about the place from whence the Gordon inquiry emanated. There was a very strong report from the coroner about the history of that camp, the circumstances of the death of the young girl involved and previous deaths. We could not give the Premier the level of reassurance we would have liked, by saying that we were in there working with the community people to resolve these matters. It was just not possible to do that. I believe that was honest and accurate advice at the time, based on a genuine concern for the individuals living at the camp.

Hon JON FORD: Did you feel at any time that you were pressured into agreeing to close the camp by either the Premier, Sean Walsh or Kieran Murphy?

Mr Curry: No. At any time I could have done as the Chairman suggested - stood up, banged the table and said that I did not agree with this; it is wrong. I did not do that, and nobody else did either.

Hon DERRICK TOMLINSON: Am I right in making an inference that you agreed with them?

Mr Curry: The decision to close did not preoccupy us in the discussions. It came back to us as an option. As I said, it was the point at which I decided that the Government felt that the view of Aboriginal community was that which Mr Gooda was putting, that it should be closed. My feeling is that that is what started that train of thinking by the Government. There may also have been some meetings with Mr Gooda or the ATSIC people privately. I do not know. My suspicion is that they may have taken place. What came back to the directors general group was that this was the way the Government wanted to go with this. At that point in time, nobody said not to do it.

Hon JON FORD: Is that the advice you gave to your minister? This is prior to the cabinet minute. I am assuming you talked to your minister prior to the cabinet minute.

Mr Curry: Not prior to that. My advice to the minister was about management - that something needed to be done to ensure that we reformed the place. The Department of Indigenous Affairs submission, at page 3 under point 15, states that as at April-May 2003 urgent government action was required to open up the Lockridge camp to remove the existing management structure and ensure the safety and welfare of women and children living in the community.

The CHAIRMAN: Was your minister one of the promoters of the cabinet minute? Does it come through your department to go to him?

Mr Curry: The cabinet minute never happened. It never got off the ground.

The CHAIRMAN: No; the one that finally led to the legislation.

Mr Curry: That was through DIA, yes.

The CHAIRMAN: It came through you, so your department promoted it, and it contained a recommendation for closure.

Mr Curry: That is correct, as well as the Department for Community Development.

The CHAIRMAN: So that was your recommendation to the minister.

Mr Curry: It was, yes.

Hon LOUISE PRATT: You talked about the turning point of ATSIC coming to the table. Was ATSIC's view on the closure given weight because it is a representative organisation?

Mr Curry: That is my recall; others may have a different view. In October 2001 the Government entered into an agreement with ATSIC, loosely called the statement of commitment, under which the Government positioned itself to take advice from ATSIC as the elected body representing Aboriginal people in this State. Some Aboriginal people agree with that, and others do not, but the point is that the Government established a formal relationship to recognise the duties and responsibilities of ATSIC, under its Act, to provide advice to the Government.

Hon LOUISE PRATT: Could it be argued that the Government was no less cooperative than Robert Bropho? You have argued that Bropho was an entirely uncooperative and dictatorial character in the view of the community, in the actions about the school room, the way the audit was seen by the community, the requests from the Swan Valley Nyungah Community for assistance in letters from Robert Bropho in 2002 and the eventual announcement of the closure. How do you characterise the notion of uncooperativeness on both sides in the effort being made by all parties?

Mr Curry: That has a lot of components. The attitude of the Government about not being prepared to sign a formal memorandum of understanding with Robert Bropho - my understanding was that Bropho wanted the Premier to be the one who signed that agreement - was uncooperative. That is a position on which the Government had made up its mind, and it would not do that. At the level of the local service providers, I believe there was a genuine attempt to engage and to get on with the business of providing services. I believe they sensed that, even since Gordon, it was more difficult to do. There was a general feeling - Mr Pedler used the words "passive resistance" for Bropho doing that. I think the directors general were very keen to try to ensure that we did service the needs of Aboriginal people, particularly the women and children living on those communities; that we genuinely tried to respond within the remits of our own agencies to do that; and that the consensus was that we were not able to do that. We were having difficulty with that, and we felt that we were failing in our responsibilities to those people. The audit you mentioned would not have been my preferred choice of acting. That is the sort of thing that does create mistrust and concern in Aboriginal communities. Any community that had such a thing imposed upon it would feel that way. There was a mix; it was a bit of both ways, I think, but the sense I have always had with this is that people had genuinely wanted to try to break through this impasse between government services and the Swan Valley Nyungah Community. The feeling has always been, I think, that there is one person in the way of that, who had this particular role and is controlling the approach to what happens in the community. Since the Gordon inquiry, nothing was really changing, and if it was, there was no immediate evidence of it, and it was not changing as quickly as we wanted it to change.

Hon LOUISE PRATT: We have had some discussion about the differentiation between allegations and things that are rumour and innuendo versus the kinds of background to the closure of the camp that is well documented, such as the Gordon inquiry and the Susan Taylor coroner's report, and other inquiries into other deaths. Can you give me a statement about the information coming forward to you in your deliberations? What were the cornerstone things you would rely on to make the decision, apart from the allegations and innuendo that you were not sure about?

[11.50 am]

Mr Curry: With the directors general meeting itself, the concern was initially raised through the Director General of Housing and Works, who made the observation at that meeting, when there was discussion about Swan Valley and the Gordon response to that, that we were doing all these things but were not addressing anything happening in the Swan Valley Nyungah Community. The collective advice from those people who are ultimately responsible for the actions of their departments was one view. That is a pretty powerful set of information to work from. My contribution to that discussion was that if that was the level of concern we had, we must bring this to the attention of government. That is where the idea of a minute going to the cabinet standing committee was developed. Ms Warbey was to prepare that. You have a first draft of that in your papers. At the subsequent meetings that took place post the advice to the Premier, there was again strong advice from ATSIC as the representative of Aboriginal people, the government agencies and ourselves throughout our own field staff that we were not off beam with this and that this was a genuine concern. To answer possibly the other way round, nothing ever came to us that said that we should not do this; nothing ever came to us that said that this was all fine and dandy. I do not have any information in front of me. You may have it. People may have come to you and said that everything was going tickety-boo out there. In my case it was not coming to us. I do not think there was much option other than to say that if this matter was as serious as it was - and I take full responsibility for my part in raising that anxiety, that concern within government; I do not step away from that for one minute - then the matter was urgent and had to be dealt with. The subsequent decisions made within government to move to full closure of the camp was, in my view, not a decision that I disagreed with. We needed to get a fresh start there to rehouse those people out of that circumstance and into more appropriate and better accommodation and to get them out of

those marginalised areas. That was not necessarily a bad thing and is not something that I would necessarily oppose if it were happening in other locations around the State. That was a bit longwinded, but I think that is -

Hon LOUISE PRATT: And there was nothing to cause you to ask about the need to differentiate with regard to the sources of your information?

Mr Curry: Not at all. It was consistent.

Hon DERRICK TOMLINSON: I will seek a point of clarification on the answer you gave to Hon Louise Pratt about ATSIC's role. I think Louise referred to ATSIC as a representative body. Who from ATSIC was at the committee meetings?

Mr Curry: Do you mean the three meetings that we are talking about? In the first instance it was Mr Gooda. He was not able to attend the second. At that meeting was Colleen Hayward and another gentleman whose name will come to me in a second.

Hon DERRICK TOMLINSON: D'Souza?

Mr Curry: No. It was not D'Souza. It was Glenn Pearson. They attended. I am not sure whether there was a representative at the third meeting. There may not have been.

Hon DERRICK TOMLINSON: When Mr Gooda and Ms Hayward were speaking, did you believe that they were speaking with the full authority of ATSIC?

Mr Curry: It was curious, was it not, in the sense that only a few days before that we had received a letter from the regional council saying that it did not support the closure?

Hon DERRICK TOMLINSON: What is curious about that?

Mr Curry: It was very curious, because on hand I had a letter that said that it did not support it. It was in a different context from that meeting, I might add, but the letter said that it did not support that. One would assume that they had the authority of the commissioner, Farley Garlett, and the chair, Gordon Cole, behind that decision, and yet within a matter of a few days Mr Gooda was saying that we should close it.

Hon DERRICK TOMLINSON: Given the good governance that you would require of the Swan Valley community before Mr Bropho took a position, would you believe it necessary for Mr Bropho to consult with the board of management?

Mr Curry: I would have thought some due process would have been in order, absolutely.

Hon DERRICK TOMLINSON: Before Mr Gooda, as the executive officer of ATSIC, took a strong position in a matter as grave as this and at such a high level of authority, would you also assume that he would have consulted his executive management?

Mr Curry: That is what he undertook to do. Mr Gooda said that his view was to close it down, but that he needed to go back to talk to -

Hon DERRICK TOMLINSON: Did he?

Mr Curry: Yes, I am quite sure of that.

Hon DERRICK TOMLINSON: Are you?

Mr Curry: Absolutely.

Hon DERRICK TOMLINSON: Why?

Mr Curry: Because I have confidence in Mr Gooda.

Hon DERRICK TOMLINSON: I see.

Mr Curry: You might laugh at it.

Hon DERRICK TOMLINSON: No, I do not laugh it. I will deny it.

Mr Curry: That he consulted?

Hon DERRICK TOMLINSON: That in fact members of the executive contacted members of this committee and said that it was not their view.

Mr Curry: That was not what was put to us, I can assure you of that. I also understand, as I mentioned earlier, that I think there were some subsequent meetings with senior government officials from within the Premier's department and representatives of ATSIC. I cannot confirm that.

The CHAIRMAN: Did you say ATSIC or ATGIS? I know that it changed in here later.

Mr Curry: ATSIC. This is not an administrative decision; this is a policy decision from ATSIC. My understanding was that Mr Gooda was to go back and consult; that he then arranged for meetings with whomever to meet with the ATSIC representatives. My genuine and honest understanding was that that had the full support of the ATSIC body.

Hon DERRICK TOMLINSON: How would you respond to the knowledge that on the very day the legislation was being debated in the Legislative Council, two members of this committee received telephone calls from members of that council saying that they did not agree and that they had not been consulted?

Mr Curry: My understanding was that they had been.

The CHAIRMAN: Would you be concerned?

Mr Curry: I am not asking you to say who they were, but were they members of the elected council?

Hon DERRICK TOMLINSON: Yes; members of the executive of ATSIC.

Mr Curry: My understanding was that Mr Gooda had spoken to the chair. They may have held a minority view. The process within ATSIC is democratic.

Hon DERRICK TOMLINSON: I do not disagree with you.

Mr Curry: I could ring you and say that 99 per cent agreed and I disagreed.

Hon DERRICK TOMLINSON: Well, you and I did have a conversation on that day, did we not?

Mr Curry: A telephone conversation?

Hon DERRICK TOMLINSON: Yes.

Mr Curry: Yes.

Hon DERRICK TOMLINSON: You rang me from Melbourne.

Mr Curry: I did.

Hon DERRICK TOMLINSON: It seems to me that you are willing to accept Mr Gooda's position as having the authority of consultation with his executive, but that every time that Mr Bropho contacts you, as the authoritative officer, as the spokesperson, you make the assumption that he has never discussed it; that he has a dictatorial position.

Mr Curry: That is right.

Hon DERRICK TOMLINSON: I cannot reconcile that you will accept the advice of one but not the advice of the other as being the representative advice from their organisations.

Mr Curry: You are making accusations against Mr Gooda that he has somehow misrepresented the views of ATSIC.

The CHAIRMAN: You are making accusations against Mr Bropho.

Mr Curry: Generally, yes. Let me answer that in my own way. The Government, in signing the statement of commitment with ATSIC, was of the view, and it is always problematic in the

Aboriginal community, that when you try to get a consensus on high order issues you will get an incredible divergence of opinion.

Hon DERRICK TOMLINSON: And it takes a long time to get consensus.

Mr Curry: It takes a long time and sometimes you end up without a result.

Hon DERRICK TOMLINSON: You always end up with consensus because they do not make a decision until they all agree. You might not like their agreement.

Mr Curry: I am aware of that. The Government's view was that under the statement of commitment, by recognising ATSIC as the elected body, as matters arose those matters could be put to ATSIC and taken back into the Aboriginal community to debate, discuss and decide and then have a view put back to government or a representation of the divergence of the view that existed within the Aboriginal community. That was a plus for government, because it presented an economical way for us to do business, in a credible way, with ATSIC. That statement of commitment was signed off on that understanding. What was taking place in this particular case was the manifestation of that exactly.

The CHAIRMAN: It may have been. If he did not consult anybody, it was poor government.

Mr Curry: I cannot speak about that.

The CHAIRMAN: You cannot speak about it, but you can speak about Mr Bropho. It seems that we have better evidence that Mr Gooda did not consult ATSIC than you have that Mr Bropho did not consult his people.

Mr Curry: I find that hard to answer, because my view is that -

The CHAIRMAN: I am sure you do, because I think it is correct.

Mr Curry: No. My personal view is that Mr Gooda is a very credible and honest operator. I would take Mr Gooda's advice any day. I find him a highly competent, acceptable and recognised man.

Hon DERRICK TOMLINSON: I would not dispute that.

Mr Curry: I have the utmost confidence and respect for Mr Gooda. As a person who is committed to outcomes for Aboriginal people, you would not get a stronger advocate than Mr Gooda.

[12 noon]

Hon DERRICK TOMLINSON: And I agree.

Mr Curry: So, on face value, if you want to call it that, and on my judgment of experience of dealing with Mr Gooda over many years, I -

The CHAIRMAN: So it is your judgment of the person rather than any evidence.

Mr Curry: No, not just the person, but of his position within the organisation, the authority he commands by that in terms of his delegated responsibilities, and the high esteem in which he is held by many Aboriginal people in this State. I would say that on the advice he gave, and the time frames that he was working within, I would take that as credible advice. Sometimes you make those calls.

The CHAIRMAN: I will take you to two pieces of evidence that I think are on the same point. I refer to page 5 of your evidence. The second time you spoke, you said -

Quite clearly, there was access to that site by a range of people, and the coroner's inquiry quite identifies Caucasian males who frequented that site for the purposes of gaining sexual favours with children on that site.

You put that up as an indication of how the community had failed to carry out its responsibilities. You were questioned by Hon Derrick Tomlinson later on, at pages 19 to 20. The transcript states -

Hon DERRICK TOMLINSON: Can I clarify one point in Mr Curry's evidence relating to the coronial inquest report. Mr Curry drew attention to page 26, and the evidence of sexual abuse by Caucasian males. At the bottom of page 26 it states that a number of witnesses described a Paul Bradshaw, who was said to live at Altone Road, Lockridge, as one of these men taking advantage of young Aboriginal females. Was it not the evidence that young Aboriginal females and others went to Mr Paul Bradshaw's home in Altone Road, Lockridge where he gave them the drugs?

Mr Curry: I understand that was the case.

Hon DERRICK TOMLINSON: He did not enter the community, did he?

Mr Curry: I do not know that.

Mr Curry: I do not.

The CHAIRMAN: You do not. I will go on to the next one. You said on page 21 -

My understanding is that they were investigated by the police . . . That is what should happen. It took the coroner to bring those names forward, not the Swan Valley Nyungah Community.

On what basis do you say that?

Mr Curry: Because if the Swan Valley Nyungah Community had been concerned, why did it not raise it with the police?

The CHAIRMAN: It did. It raised it with the police, and the police acted on it; yet in both those cases you seem to have been prepared to draw an adverse conclusion - you went out of your way to draw an adverse conclusion - that is not justified by any facts that you know.

Mr Curry: I am reacting to what is in the coroner's inquiry, and it quite clearly says -

The CHAIRMAN: Yes, and you took the opportunity to make a gratuitous remark; that is, "It took the coroner to bring those names forward, not the Swan Valley Nyungah Community." You do not know, do you? Why did you make that gratuitous remark, Mr Curry?

Mr Curry: I made it because it was stated in the coroner's inquiry, and I am referring -

The CHAIRMAN: What was stated in the coroner's inquiry?

Mr Curry: The concern about the welfare of young women and young girls in that community through these particular individuals.

The CHAIRMAN: Yes, it was, but you have gone on to make a gratuitous remark that it took the coroner to bring those names forward, not the Swan Valley Nyungah Community. That was your statement. What was the basis for that statement?

Mr Curry: That is my understanding. Those people were still -

The CHAIRMAN: What does your understanding come from?

Mr Curry: Those people were still active, and it was said later that they had not been -

The CHAIRMAN: What was your basis for saying that the Swan Valley Nyungah Community had not reported it?

Mr Curry: Because it is my understanding that they had not reported it.

The CHAIRMAN: But where did you get it from?

Mr Curry: You can say it is my reading of this and the fact that they were active at the time the coroner made the suggestion, and to my understanding they had not been dealt with.

The CHAIRMAN: Where did you get that understanding from?

Mr Curry: In my discussions with my regional staff that those men were still in the community.

The CHAIRMAN: It seems to me, Mr Curry, that whenever it is possible to make an adverse reflection on Mr Bropho, you do so.

Mr Curry: Because I have no confidence in Mr Bropho.

The CHAIRMAN: Precisely.

Mr Curry: Exactly.

The CHAIRMAN: So a lot of your evidence is coloured by the fact that you do not like Mr Bropho, is it not?

Mr Curry: It is not a matter of like or dislike; it is a matter of saying that I do not believe he was discharging his responsibilities to manage that -

The CHAIRMAN: But in that particular case you are incorrect. You went out of your way to say that the community had not told them when you did not know.

Mr Curry: My understanding is that they had not been dealt with. Those men were still -

The CHAIRMAN: That may be a criticism of the police. Why did you have to criticise the Swan Valley Nyungah Community?

Mr Curry: Because my understanding was that it had not been dealt with. My sense of it was that it had not been dealt with, and the result is -

The CHAIRMAN: There is a lot of “sense” and “understanding”. However, you went out of your way to give evidence to this committee that it had not done it, as though you knew.

Mr Curry: I do not feel that I need to say that that is necessarily unreasonable to say. In this committee, and responding to the questions that are asked -

The CHAIRMAN: That was a gratuitous remark, Mr Curry. It was not asked of you. I did not ask you, nor did Hon Derrick Tomlinson, “Had the Swan Valley Nyungah Community reported it?” Were you asked that question? It was a gratuitous remark that you went out of your way to make, and it quite plainly had an adverse implication to it, as did your earlier one about the access of Caucasian males.

Mr Curry: They were matters that were raised in the coroner’s inquiry. They were of concern. If I might just say, you are quoting this evidence and you have raised this matter of how I view the seriousness of and the need to address the concerns about the protection of young women or young girls in this community.

The CHAIRMAN: I think we know that, Mr Curry.

Mr Curry: Hang on.

The CHAIRMAN: We share that view.

Mr Curry: I just want -

The CHAIRMAN: No, Mr Curry; you are here to give evidence about facts.

Mr Curry: Yes.

The CHAIRMAN: And I would like you to stick to facts, because we have had a lot of views expressed by you which, when we go into them, we find are not supported by facts. The fact I put to you is that you went out of your way to make a gratuitous remark for which you had no knowledge. Had you been advised by your officers that the Swan Valley Nyungah camp had not reported it?

Mr Curry: That is my understanding of it.

The CHAIRMAN: Had you been advised by your officers?

Mr Curry: Not specifically.

The CHAIRMAN: Had you been advised by the police?

Mr Curry: Not specifically.

The CHAIRMAN: Was there any factual basis upon which you could draw that conclusion?

Mr Curry: No fact.

The CHAIRMAN: Why did you tell the committee something for which you had no factual basis, not even advice?

Mr Curry: It is my view that those men had not been dealt with, that they were still active, and, in my view, the coroner had raised a level of concern about those men. If it had been reported and dealt with by the police, something would have been done about it.

The CHAIRMAN: Presumably so, Mr Curry, but why did you have to say that it had not been done by the Swan Valley Nyungah Community when you had no basis for saying that?

Mr Curry: I will take the point, but you also need to understand my view of that. You are trying to form a view about how I saw that particular community, of how I saw things.

The CHAIRMAN: I am raising it in the sense of how fair your view has been in all these matters, and I am giving to you two instances in which I think you have given the committee an adverse implication about Mr Bropho that is not based on fact.

Mr Curry: My view is that nothing had changed. Those men were still there. They were still liable or -

The CHAIRMAN: I am not asking you to argue the point; I am asking you to deal with the question I have put to you, which is that there was no factual basis for it at that time. You might have had a reason for your opinion, but you had no factual basis.

Mr Curry: Yes. In my view, I believe I have a good reason for that opinion.

Hon DERRICK TOMLINSON: I agree with you that action had not been taken against those three people. However, my concern is this: one of them operated in a private home in Lockridge; one of them operated from a vehicle in the streets of the town of Midland; the third operated in a youth facility in the town of Midland, far removed from the Swan Valley Nyungah Community. Do you say that the Swan Valley Nyungah Community should have taken action, or should other authorities have taken action?

Mr Curry: I think the Swan Valley Nyungah Community should have taken action if it was aware of people entering the camp, or even hanging around the gates of the camp. The police station is in very close proximity. The community has an excellent working relationship with the police, so we are told. I would have thought the appropriate thing to do was to go and deal with those people - take action - or specifically lay a complaint that the police could deal with.

Hon DERRICK TOMLINSON: Three incidents were raised in the coronial inquest. Those three people against whom action was not taken did not operate in or around the Swan Valley Nyungah camp; they operated in the locations I have described. How would that become the responsibility of the Swan Valley Nyungah Community? Was it not the responsibility of the police department, for example?

Mr Curry: My view is that the Swan Valley Nyungah Community's responsibility was, when dealing with the welfare of those children, if it was, as it would be, of concern, to ensure that they were getting the most appropriate level of support possible; and the most appropriate level, I would have thought, was to remove those perpetrators from the scene - get rid of them, push it hard, make a complaint, take it to court.

[12.10 pm]

Hon DERRICK TOMLINSON: When the Swan Valley Nyungah Community responded with their maintenance -

Hon LOUISE PRATT: Mr Chairman -

The CHAIRMAN: I think we will leave it there. Are there any other questions?

Hon ROBIN CHAPPLE: Just one, if I may, but nothing to do with the issues we have been dealing with.

Obviously from your department's perspective, you deal with heritage matters. Whilst you may not have been to the camp in the broader sense, did your department go to the camp in relation to heritage-related matters and deal with Mr Bropho?

Mr Curry: I think Mr Pedler has indicated that once or twice a year there would be a visit on a particular matter that they wanted to specifically discuss at the camp.

Hon ROBIN CHAPPLE: In relation to heritage matters, what was your or your department's relationship with Mr Bropho through the ACMC and those sorts of involvements? Did you have a good rapport?

Mr Curry: I would suggest Mr Bropho has very little confidence in us as a department. He would view that we are agents of government who do not support his views on heritage; that the process is not sympathetic to his needs. I put that to you as an honest assessment of how he views us and would indicate that on all those matters where he has contested our decisions or recommendations to the minister and the subsequent disapproval by the minister, and when he has contested them in federal jurisdictions, he has not on one occasion been successful. So an external arbiter has investigated that process rigorously, without any view about me or Bropho or anybody else, and has found that those claims are not substantiated.

The CHAIRMAN: He won against me.

Mr Curry: I am talking about heritage matters, unless you were involved in those.

The CHAIRMAN: I am talking about federal matters. He took my heritage matter to the federal authorities and won.

Mr Curry: I can give you a list of the ones I am involved in. In what capacity was that?

The CHAIRMAN: As minister for prisons.

Mr Curry: How long ago was that?

The CHAIRMAN: In 2000. He got an order from the federal minister.

Mr Curry: The ones that my people have given me indicate that he has not been successful in any of them. I am happy to table that for you.

Hon ROBIN CHAPPLE: Would you and your department consider him to be vexatious?

Mr Curry: I am not saying vexatious; I am saying he pursues the matter rigorously and he uses every avenue he can. I am not casting a negative view on that at all.

The CHAIRMAN: I think we have gone as far as we can. Thank you very much, Mr Curry. You will receive your transcript; will you correct it and send it back? You will understand there are two ways of correcting it: one is where you think you have been incorrectly reported, if you would let us have in one letter what that is; and the other one is where you think there is something that you have said that you would rather amplify or correct, if you could let us have that in a separate letter. Thank you for your attendance.

Committee adjourned at 12.13 pm