

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

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON THURSDAY, 21 AUGUST 2003**

SESSION 4

Members

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

[10.00 pm]

HOOKER, MR RICHARD

**Barrister; (formerly) Counsel Assisting the Gordon Inquiry,
Wickham Chambers,
Level 11, 28 The Esplanade,
Perth, examined:**

The CHAIRMAN: You have signed a document entitled "Information for Witnesses". Have you read and understood it?

Mr Hooker: 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 the course of this hearing for the record. Please be aware of the microphones and try to talk into them. They are actually for the purpose of recording, not amplification. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence has been finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Welcome to the committee. I am sorry we are a little late in getting to you. I have your opening statement, but I will not ask you to repeat it. Will you confirm that the information contained in your opening statement is true and correct? You have no objection to us making that public have you?

Mr Hooker: I mentioned to the committee clerk that there were a couple of typos in the document. If I can correct them when I get a chance tomorrow and provide a final copy I would be obliged.

The CHAIRMAN: It will be perfectly okay to do that.

I refer to page 6 of your statement, which reads -

It was the Inquiry's view that the guiding principle to resolve difficulties of access to the Swan Valley Noongar Community lay in negotiation, understanding and mutual respect and trust. It drew on evidence given by certain government officers of some progress made towards the progressing of a Memorandum of Understanding between government representatives and the community to deal with issues of access.

That resulted in recommendation No 141 did it not?

Mr Hooker: I will have to refresh my memory on the precise number of the recommendation.

The CHAIRMAN: That is the one that said there should be a memorandum of understanding.

Mr Hooker: Yes.

The CHAIRMAN: Do you know what the Government's response to that was?

Mr Hooker: Not off the top of my head. I did read the action plan in full.

The CHAIRMAN: I can probably tell you rather than have you worry about it. It rejected that as an option and decided to amend the management order; in other words, proceed by management order.

Mr Hooker: Yes.

The CHAIRMAN: Did that appear to follow the idea that was recommended by the Gordon committee? Did you see that as following the spirit of the recommendation?

Mr Hooker: I would have to say that they seemed to me to be conceptually different things.

The CHAIRMAN: What about the concept of actually terminating the management order by Act of Parliament? I will not deal with some of the content of that Act. Did that appear to be in concert with the spirit embodied in the Gordon report?

Mr Hooker: For all the more reason, no. It may have merits and demerits and pros and cons but in terms of whether it flowed from or sat consistently with the recommendation to which we have been referring, and the findings of the inquiry that supported that, I could not say that there was a connection, no.

The CHAIRMAN: I am asking you to state the obvious, but are you aware of the terms of that legislation?

Mr Hooker: In broad terms, yes. I have read the Act.

The CHAIRMAN: There are other things in that in relation to natural justice and so forth which seem to emphasise what you said even more so.

Mr Hooker: Indeed, they are quite conceptually distinct. They may have merits, demerits, pros and cons and express removal of principles of procedural fairness and denial of access to the courts, but they do not necessarily follow or sit conceptually at ease, if I can use that expression, with the idea of amending or in turn revoking management orders.

The CHAIRMAN: Why did the Gordon inquiry come to the view that the way to resolve the difficulties was by way of memorandum of understanding?

Mr Hooker: Several witnesses spoke on the issue from each of, to the best of my recollection, the Department for Community Development, the Police Service, the Department of Education and, I think, one or two representatives from health related agencies. They were witnesses who came across as impressive, committed public servants and, to varying degrees, they had from time to time positive relationships with senior members of the Swan Valley Nyungah Community. Their evidence traversed the fact that from time to time those relationships would wax and wane. But, by and large, those witnesses were committed to, themselves, seeking to deal with access and related issues through cooperation and conciliation. I think the evidence of those witnesses impressed the inquiry.

As I have also alluded to in my opening statement, it was not a topic we had the time and resources to canvass exhaustively, but insofar as we were able to canvass it in light of the evidence we received and the way those witnesses gave their evidence, I think it then naturally led to the conclusion that such efforts that had been made to that time should be continued as far as possible.

The CHAIRMAN: To a person reading the Gordon report it would appear that many of these problems of sexual abuse and domestic violence were not uncommon in Aboriginal communities throughout Western Australia. In other words, it was not unique to that particular community.

Mr Hooker: Absolutely not. It is a huge problem across many Aboriginal communities in the State.

The CHAIRMAN: In the course of the inquiry, did you find anything about the Swan Valley Nyungah Community that was what you would call unique?

Mr Hooker: There was a significant body of material that evidenced the - to put it at its lowest point - strong will of senior management figures at that community. Some material would even have put it higher than that and suggested that there was a positive propensity for there to be a fracturing of established relationships, creation of disagreements, and, if you like, downright generation of ill will. We tended to have access to that kind of material because we got a lot of representations from the community itself, for a start. I personally, and other members of the inquiry and people associated with the inquiry, spoke to people informally who knew those associated with that community. That was the case for some other Aboriginal communities, particularly in the far north of the State but it was particularly prevalent for this community. So we had rather more information concerning that community than any of the other 290-odd in Western Australia. There was a uniqueness in that way. That was partly due to the fact that one of the terms of reference was expressly concerned with the community. It was partly concerned with the fact that it was a high profile place and, because we were based in Perth, those other Perth-based people who knew the community well could have ready access to us. There was a range of reasons for that but, for the reasons I initially gave, yes, there was a uniqueness by reason of the personalities of those in senior management at the community.

[10.10 pm]

Hon JON FORD: When you were looking at the Swan Valley, or those communities around there in general, did the Gordon inquiry talk to agency people - the people on the ground - or was it at a higher level?

Mr Hooker: No, we formally, through the taking of sworn evidence, and informally spoke with a variety of relatively senior and mid-range government officers who service the Swan Valley Nyungah Community.

Hon JON FORD: You said that there was a particular focus on the Swan Valley community because it was a term of reference and also because of that location. Was there anything that came out of that inquiry into the particular community that led you down a line of investigation in regards to other communities?

Mr Hooker: No, I would not put it in that way. I know the inquiry was particularly keen to pursue the fact that there were many other Aboriginal communities in this State and for many of those communities there were other circumstances: geographical location, climate, other particular Aboriginal races - Yamatjis for example, and various distinct races in the far north of this State. The committee was keen to explore that range of variables and wanted to be sure that as broad a cross-section of communities could be as fully heard as possible in the limited time we had available. That was a perception the committee members held very strongly from the start, rather than it being the case that there was some initial perceptions and impressions as a result of studying the Swan Valley Nyungah Community which we then pursued elsewhere. Two very different things, I think.

Hon JON FORD: That reiterates what the chairman said in that there was nothing unique, other than perceptual evidence that there was a stronger management.

Mr Hooker: Yes. I qualify that by saying a number of communities we spoke to had representatives that expressed concerns about the management of those particular Aboriginal corporations, and the Gordon inquiry found that instabilities in management generally were one of the vast range of factors that could give rise to child abuse and family violence, or at the very least mean the response is less effective than it might be. It was by no means unique to the Swan Valley Nyungah Community that there were issues, if I can use that broad word, concerned with management; but, to reiterate what I said to the chairman, the personalities were particularly strong at the community we are focusing on.

The CHAIRMAN: Can I pick that point up? Are you saying that one of the problems can actually be weak leadership?

Mr Hooker: Yes.

The CHAIRMAN: Like most things, too much of anything is not too good but if you get the right thing it is all right. Too-weak leadership is no good, but too-strong leadership also causes concerns.

Mr Hooker: Yes. That is a proposition that is hard to dispute as a matter of commonsense and human intuition. The particular perceptions we got in the inquiry supported that as well.

The CHAIRMAN: I assume you found a range of managements, from one end of the spectrum to the other.

Mr Hooker: Yes.

The CHAIRMAN: You would not necessarily have found only one of any particular kind. There would have been other ones where you found strong management or over-strong management.

Mr Hooker: Yes.

Hon JON FORD: Did you and/or the inquiry go out to the Swan Valley camp?

Mr Hooker: I did not personally. The committee members and some staff of the committee went on at least one and I think two occasions.

Hon JON FORD: Did they comment on any problems with meeting with the community or access issues at all?

Mr Hooker: No. I was not there so I am only going on my recollection of what I was told. As I understand it, there were no difficulties in them accessing and literally getting onto the premises, and having a fluent discourse with the members and their supporters.

Hon LOUISE PRATT: I have a brief question. You explained the position that the inquiry came to regarding the memorandum of understanding being the way to go. In view of other comments you made about issues of leadership and complexities regarding agency access, were you surprised that others might form an alternative view that a further MOU was not viable?

Mr Hooker: No. I would not say "surprised" because, reiterating to some extent what I said earlier, we were constrained in the time and resourcing we had to look at the issue in depth. Overlapping with the point I made to the chairman, we had a certain amount and nature of evidence. That was impressive evidence. I am confident in saying it found favour with the three inquiry members. For any other person or group of people sitting elsewhere with a different perspective with a different range of information, the decision as to how best to address the perceived difficulties could well be a different one.

Hon DERRICK TOMLINSON: Mr Hooker, you indicated in response to Hon Peter Foss that the problems of family violence and child abuse are not unique to the Swan Valley Nyungah Community; they are almost endemic in Aboriginal communities.

Mr Hooker: Yes

Hon DERRICK TOMLINSON: The Gordon inquiry accumulated considerable disclosures about family violence and child abuse relating to the Swan Valley Nyungah Community.

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: You indicated that may be because the inquiry was located in Perth and the Swan Valley community was a particularly visible community.

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: There were three other communities in Perth -

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: - not far from the Swan Valley: Cullacabardee; Sydney Road, Gngangara; and Henley Brook. Did the Gordon inquiry accumulate disclosures about those communities also?

Mr Hooker: Not to my knowledge. I personally did not receive any disclosures concerning people living at or connected with those communities. I know each of the three inquiry members, the senior researcher and the executive officer from time to time, individually or with some combinations of those people, spoke to various individuals. It was impractical for each of us to keep tabs on what the others were doing. If there was enough material of significance generally on a particular topic, that would be discussed. I cannot comment on whether those people received disclosures in respect of those other Perth-based communities.

Hon DERRICK TOMLINSON: In referring to the senior management, you indicated that they had a style of leadership which I might sum up as being oppressive. Is that a fair -

Mr Hooker: That is a fair word. There may be others.

Hon DERRICK TOMLINSON: That senior management group was the senior Bropho -

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: Robert?

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: Richard, Harvey, Herbert?

Mr Hooker: Those latter three names were names that were mentioned from time to time. I at no point had any clear understanding of any formal or informal hierarchy or structure. I think there is little doubt all meaningful power ultimately resided with Mr Robert Bropho.

Hon DERRICK TOMLINSON: In addition to comments about the oppressive nature of the leadership style and the concentration of power in the hands of Mr Bropho, there also were a large number of disclosures to the Gordon inquiry about violence and child abuse.

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: Did the disclosures of violence and child abuse focus only on that oppressive management group, or were they focused elsewhere or were they not focused on particular individuals?

[10.20 pm]

Mr Hooker: I would not describe the disclosures as focused on any individual or group of individuals. That is largely because - as I have alluded to, I can provide more elaboration and my preference would be to do it in private session - the disclosures given to me informally were put in a general way, and not always with a great deal of specificity. However, the import of what was being said was clear. In respect of some of those people making disclosures, I found that I was treading a delicate line between encouraging them to be as free and frank as possible yet not being overbearing or too interrogating in my style that might compromise them or create reluctance for them. The nature of the discussions was such that they did not provide for great specificity about individuals who were perpetrators, but the import of the phenomenon of abuse was a message that was clearly sent.

Hon DERRICK TOMLINSON: It was within the community?

Mr Hooker: Yes.

Hon DERRICK TOMLINSON: Did the disclosures come from persons within the community?

Mr Hooker: Yes. They were conveyed to me second-hand by people who knew those who were - on those people's accounts - the subject of abuse or violence.

Hon DERRICK TOMLINSON: The penultimate paragraph on page 6 of your evidence says that it was the inquiry's view that the guiding principle to resolve difficulties of access to the Swan Valley Nyungah Community lay in negotiation, understanding, mutual respect and trust. Given the oppressive nature of the leadership and the dictatorial presence - or what might be characterised as the dictatorial presence - of Robert Bropho, do you think that that was a realistic recommendation or proposition?

Mr Hooker: Yes, because the government officers whose evidence sourced that recommendation were talented, impressive and sensitive people. Perhaps they even had an extraordinary amount of patience and interpersonal skills to make the progress they did with senior management of the community. Such was the import of their evidence and the way they gave it that it motivated the members of the inquiry to make those findings. I think it was realistic. Whether it ultimately would have worked is entirely speculative, but it was realistic.

Hon DERRICK TOMLINSON: Having deliberated, having heard the evidence and received the positive and negative views of this community, it was the honest opinion of the Gordon inquiry that the memorandum of understanding, which was based upon understanding and mutual respect, was the best way to proceed?

Mr Hooker: Yes

Hon DERRICK TOMLINSON: Thank you.

Hon ROBIN CHAPPLE: Did the Gordon inquiry look at the values of community or communities as entities in terms of Aboriginal culture?

Mr Hooker: No; however, I think it is fair to say it was almost taken as a given - that there is an inherent value for Aboriginal people, given various cultural aspects of their identity, including their oneness with the land. I do not pretend to understand those subtleties completely. As a white person, I did the best I could in the time available during the course of the inquiry. Two of the members of the inquiry were Aboriginal people. They were both of Yamatji descent, as I understand it. I do not think the inherent significance and value of community life and existence for Aboriginal people was ever called into question.

Hon ROBIN CHAPPLE: In terms of the meetings or deliberations that took place outside the metropolitan area, did you find other communities or another community with particular strong concentrations of power?

Mr Hooker: I do not know whether enough time was spent, out of necessity, given the vast expanse we had to cover in the limited time, for us to reach that conclusion in respect of any one community, aside from the Swan Valley Nyungah Community. We found, as I alluded to earlier, that there were points across the spectrum of the apparent quality of management. I can recall in respect of some of the communities in the Dampier Peninsula that in meeting with members of the governing body, we had real concerns about their effectiveness. One must be very careful in making those conclusions on the basis of a relatively short meeting, particularly for me as a white person who is talking to Aboriginal people. There are real cultural issues that take a long time to overcome. We made those tentative assessments with a lot of circumspection, but we still had those concerns. We just did not have the time to probe what the apparent causes were of those limitations, whether there were certain power bases, or there were ways in which the governing bodies could be unduly influenced, or whether the people elected just were naturally suited for leadership. They would all have been possibilities, but one would have needed a lot of time and resources to go down that path in any detail.

The CHAIRMAN: I think we will resolve to go into private session. For the people here, it is unlikely we will be coming out of private session, as there are no further witnesses. Therefore, there will be no point in hanging around.

[The committee took evidence in private.]

The CHAIRMAN: The committee has moved back into public session. Do you understand?

Mr Hooker: Yes, from now.

Hon LOUISE PRATT: To return quickly to the issue of leadership, we were talking before about strong leadership and evidence has been put before the committee pertaining to whether the strong leadership is exerted to tackle issues of child abuse. That strong leadership can be exercised in different ways in different communities. It was not made clear in earlier discussions, and I ask you to comment on that aspect now.

Mr Hooker: Are you asking at a general theoretical level or my impressions of the Swan Valley Nyungah Community?

Hon LOUISE PRATT: Both really. We heard evidence that there are different communities with strong leadership and that that can be both a negative and positive thing. In some communities, strong leadership is being applied to address child abuse issues and in other communities it is not. We have fudged around it saying that it is a matter of balance, and discussed whether it is sometimes good or bad. It is a matter of whether the leadership is applied to the community.

Mr Hooker: That is undeniably correct. That has been an issue of complexity because there is and has been in certain Aboriginal communities - it is rapidly becoming an outdated view, nonetheless - a view that there is a "cultural right" of senior Aboriginal males to assert their masculinity through violence and even possibly - probably - worse to take sexual favours as they see fit. I think there would have been many occurrences - thankfully, most of them are historic examples - where one would have equated a strong leadership with a perpetuation of the ills we are talking about. At least the two could be seen as consistent things. There may still be Aboriginal communities in this State in which there is not a separation of those two things. That is a very grave problem, obviously, to the extent that it still exists.

With respect to the Swan Valley Nyungah Community, there are certain criminal charges on foot and those criminal processes have to run their course. Perhaps assessments can be made only after all the charges, and possibly other charges potentially in the pipeline, have been dealt with, but I think it is at least a tenable view that while management of that community explicitly said it was opposed to sexual abuse and family violence and it was committed to stamping it out, those were mere hollow words.

The CHAIRMAN: Thank you very much for giving your evidence. You are excused.

Committee adjourned at 10.46 pm