

ECONOMICS AND INDUSTRY STANDING COMMITTEE

**TRANSCRIPT OF EVIDENCE TAKEN
AT THE MIDLAND TOWN HALL, MIDLAND
FRIDAY, 10 AUGUST 2001**

SECOND SESSION

Members

Mr McRae (Chairman)
Mr Day (Deputy Chairman)
Mr Bowler
Mr Masters
Mr Murray

JONES, MR RONALD,
Associate Member, Alliance for a Clean Environment,
examined:

The CHAIRMAN: Mr Jones, thank you for agreeing to appear before the committee to talk to your submission. We appreciate it very much. The committee hearing is a proceeding of Parliament and warrants the same respect the proceedings in the House demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Have you completed the details of witness form?

Mr R. Jones: Yes, Mr Chairman, I have.

The CHAIRMAN: Do you understand the notes attached to it?

Mr R. Jones: I do.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet and guidance note regarding giving evidence before parliamentary committees?

Mr R. Jones: I did.

The CHAIRMAN: Did you understand all aspects of that information?

Mr R. Jones: I did.

The CHAIRMAN: Do you have any questions about that information?

Mr R. Jones: No, thank you, sir.

The CHAIRMAN: For the record, will you state the capacity in which you appear before the committee?

Mr R. Jones: I appear partly as an associate member of the Alliance for a Clean Environment and partly on my own behalf.

The CHAIRMAN: We received your submission yesterday. Do you wish your submission to be incorporated as part of the transcript of this hearing?

Mr R. Jones: Yes, please.

The CHAIRMAN: I invite you to speak to that submission before we ask you questions.

Mr R. Jones: Thank you. I appear here as an associate member of the Alliance for a Clean Environment and as someone with personal interests through the involvement of my grandson, who was one of the volunteer firefighters called by the Shire of Mundaring to help combat the ensuing fire break-outs. Before getting too far along the track, I will hark back to the first public meeting that was held in Midland. The first meeting was not a product of any initiative or action by any level, form or agency of government, either state or local. The alliance did the organising, made and hung the advertisements, booked the hall, organised the media, set the chairs, invited the various government agencies and politicians to attend, paid the costs involved, and managed the meeting on the night. We were promised that we would have a fully independent inquiry. That led us to expect something along the lines of the current Ian Temby finance brokers inquiry, in which cross-examination skills and other legal leverages would be brought to bear. However, that is not what we got. Although I have no wish to appear offensive, and I can deal only in fact, we have a parliamentary inquiry. Now we all must make the best effort we jointly can to make the best of the situation and, hopefully, to achieve a worthwhile outcome. That is the spirit in which I appear

today. Our thinking includes the view that, morally, this is the people's inquiry. It belongs to the people. Without the people involved, it probably never would have happened. In that sense the inquiry belongs to us. We therefore ask you to bear that in mind and make this inquiry as user friendly as possible. We ask you not to give any greater credibility to the words of bureaucrats or politicians simply because they are bureaucrats and politicians, but to take to heart what the great unwashed have to say, because they will be speaking from the heart. They carry no blame; whereas the others do carry the blame and they will be seeking to defend the indefensible. That is what I needed to say to cover what I have written. Do you have any questions, Mr Chairman?

The CHAIRMAN: Thank you for those comments, Mr Jones.

Mr MASTERS: What constraints do you believe are imposed on us as a parliamentary committee inquiring into this very important issue? What do you believe we do not have the power to do, or what do you believe we cannot do that you would want us to do?

Mr R. Jones: I am glad you asked that question, because it brings me to a very strong point that I wish to make. I have already made it and you have already given me an answer to it, Mr Chairman. However, I wish to raise it again. I used the words "fully independent inquiry" and that is not what we have; we have a political inquiry run by politicians - no offence intended. One of the terms of reference deals with ministers of the Crown, and Mr Day was a minister of the Crown. My main submission, which the committee is yet to receive, will point out that Mr Day needs to be investigated. His actions need to be inquired into. How can Mr Day be part of the inquiry to inquire about himself?

Mr MASTERS: I understand the point you are trying to make and you have received a reply from the Chairman on behalf of the committee, but I will take it a step further. Whether I accept or reject the point you have just made, what constraints are imposed upon, for the sake of argument, the remaining four members of this committee if you believe that Mr Day is somehow not independent? What constraints exist to stop us doing the sort of quality investigation that you want done?

Mr R. Jones: For a start, the committee really does not have the power to object to Mr Day.

Mr MASTERS: No, I am sorry; I am asking you not to focus on Mr Day. Apart from that, what else can the committee not do that you think it should be able to do?

Mr R. Jones: The ability to cross-examine perhaps.

Mr MASTERS: I thought we had the ability to cross-examine.

The CHAIRMAN: I think Mr Jones is referring to a submission he made in writing to us in the lead-up to the opening of this inquiry. It is my understanding from your correspondence with me that you argued that you and others should have the ability to cross-examine people giving evidence. Do you have a comment on that?

Mr R. Jones: Yes, Mr Chairman, you did respond to that. I accept your reply because I have to, but, in any case, I do accept it. As I remember it, your response was that there will be an opportunity to put in a submission during the course of the hearings to challenge something that somebody has said and to ask that the Chairman then ask those people further questions or take the matter further. I find that satisfactory.

The CHAIRMAN: In addition to that, my response was that those submissions will be considered by the committee, and we will make a decision on whether we will pursue those lines of inquiry.

Mr R. Jones: Yes.

Mr MASTERS: Are you happy that the committee has the ability to cross-examine witnesses and gain information? Are you concerned that you, as an interested party to this, are not able to cross-examine witnesses?

Mr R. Jones: Yes.

Mr BOWLER: You are aware that we have already extended the deadline for your submission. When can we expect your substantive submission?

Mr R. Jones: Very early next week. As late as a quarter to five yesterday, I finally extracted some documentation from the Water and Rivers Commission. I did not get the other material from the local shire until Wednesday, and I still must weave that in. I ask that you bear with me. It is a very lengthy submission. It contains about 400 documents.

The CHAIRMAN: I can understand why it is a bit late.

Mr R. Jones: I gather that members cannot read everything at once anyway.

Mr DAY: I will respond to the point you raised earlier and then I will ask a couple of questions. I am aware of your assertion that I have a conflict of interest in some way, having been Minister for Health up until the election or, technically speaking, shortly after. However, as I think has been pointed out to you, the only two agencies that I am aware of that had any ongoing role in regulating and monitoring what was happening on the Bellevue site were the former Department of Minerals and Energy and the Department of Environmental Protection. At no time during the period I was a minister in the term of the previous Government have I had responsibility for those agencies. Any concerns that I might be compromised in that sense are unfounded.

The Department of Health, through its specialist officers, provides advice to other agencies about possible health impacts on a range of chemicals and substances, whether they be in the air or in any other form in the community. However, that is a technical thing that no Minister for Health would normally become involved with at all. I assure you that I had no personal involvement in the management of that site up to or since the election. My only knowledge of it has occurred since the fire. It is correct that, towards the end of 1999, Cabinet, of which I was a member, approved a submission for supplementary funding of \$100 000 for the Department of Environmental Protection to remove about 1 000 drums to reduce the hazard on the site. However, that was the Government taking proactive action to reduce the risk, rather than some sort of conspiracy to put at risk the lives or welfare of the people of this region. The only concern was to minimise or reduce the hazard that existed. I do not recall that submission going through Cabinet. It is not something I would have had any direct involvement in, but I accept that I was a member of Cabinet. I do not think that gives rise to any conflict of interest in my view, or in the view of other members of the committee.

As far as the substance of the issue is concerned, what was your knowledge of the site prior to the fire and over what period approximately?

Mr R. Jones: Absolutely zero. I had no knowledge of the site prior to the fire. It was only through my grandson being one of the volunteer firefighters that I then took an interest in it. I started to look at why volunteer firefighters were called to the site when they should not have been. They were put at great risk. They were not equipped.

The CHAIRMAN: Is this the Stoneville Volunteer Bushfire Brigade?

Mr R. Jones: Yes, and about five of the Mundaring brigades and others, such as the Guildford brigade and so on.

Mr DAY: I was going to ask what degree of concern you had prior to the fire and how you were made aware of it, but you did not have any knowledge of it prior to the fire.

Mr R. Jones: I did not know it existed. However, once I started looking at it, I was horrified with what I saw. The deeper I looked, the more horrified I became. I attended the public meeting just after the fire, and the things that I heard at that meeting were horrendous.

Mr DAY: Is your main concern the effect on firefighters and how the situation developed in the lead-up to the fire?

Mr R. Jones: Yes; that is, from birth, how the planning allowed it to be created and put where it was in the first place, and how it was managed or mismanaged throughout its lifetime.

Mr BOWLER: You were unaware of the facility before the fire?

Mr R. Jones: Yes.

Mr BOWLER: Yet, there was no widespread opposition within this community to the facility before the fire.

Mr R. Jones: Again, I do not know. I have lived in this municipality for only a couple of years. I lived in the Mundaring shire before that. I did not know about it.

Mr DAY: If you live in Swan View, you are probably still in the Mundaring shire.

Mr R. Jones: No, I am in the City of Swan's portion of Swan View. I point out that my objection to **Mr DAY** is based on the role he played in Cabinet's decision-making process to fund the continuation of this operation, when it was clear that it should have been stopped immediately. In my view, Cabinet was acquainted with the risks that remained at the time, whether or not 1 000 drums were removed. I have been in a position, Mr Day, in which when I heard a bomb screaming through the air, I did not stop to wonder whether it was a 2 000-pound bomb or a 1 000-pound bomb. If bullets were coming at me, I did not say, "These are all right; they are only nine-millimetre bullets. They are not big bullets, so I am safe." Cabinet was well aware of and well acquainted with the risks to the public.

Mr DAY: It is accurate to say that one of the important roles of this committee is to look at the overall situation which developed over a period of years and to determine whether other realistic alternatives could have been put in place. It is easy to be wise with the benefit of hindsight. Quite clearly a dangerous situation developed, but the committee has a responsibility to take into account all the information that is provided to it, by both government agencies and people in the community, to determine whether there were other realistic alternatives. I am quite right in saying that that is something the committee will be going through in a lot more detail. We will hear from many people who have some valid information to provide on that issue.

Mr R. Jones: The operator of the site was not getting rid of the waste. Everybody wants to concentrate on the dry-cleaning fluid, and everybody wants to pretend that none of the other 52 chemicals existed. If members of the committee look at the figures they have been given by **Mr French**, and they look at the total quantity that was stored on the site, they will find that the operators had accumulated the waste on the site for many months. It was not going anywhere. The Government's getting rid of 1 000 drums still left a horrendous number of leaking drums stored on the site. The Government did not ask for 1 000 drums to be removed and concentrate on the leaking drums. The leaking drums, which were at the bottom, remained.

Mr DAY: They are the sorts of issues about which we will be asking the Department of Environmental Protection and the Department of Mineral and Petroleum Resources in great detail.

Mr R. Jones: Yes, but will you get straight answers?

Mr DAY: That will not occur today, but the committee will do it. I accept that I was a member of Cabinet, but I do not have any personal recollection of this issue being raised. That does not mean that I shy away from the fact that I was a member of Cabinet. It is not something that was conscious in my mind. Even though I live within this district - within eight kilometres of the site - I was not aware of it. I do not think there was a widespread degree of knowledge or consciousness in the community about the site in Bellevue. It is really only since the fire that most people in this district have become aware of it.

The CHAIRMAN: We will now return to the substance of the issue. I say that for a couple of reasons and I am happy to put them on record, as I have done with you, Mr Jones, in conversation and in writing. The first objective of this committee's inquiry must be to understand the sequence of events, in both the operation of the facility at Bellevue and the management and governance of the regulations that allowed that site to exist. We are pursuing parallel questions.

Mr R. Jones: Certainly.

The CHAIRMAN: It would also be fair to say that an incident of this proportion - as dangerous as this might have been - would not have occurred had we not been, as you put it, blessed by the luck gods. Such incidences do not happen without a combination of failures in both operational and systemic terms.

Mr R. Jones: You are right on the money, Mr Chairman.

The CHAIRMAN: It is perfectly legitimate for you to raise your concerns. However, having put them on the record, it is important that we dive into the substance of those questions and challenges. The committee's task is fairly substantial and we have set ourselves a tight time frame in which to achieve that. I now direct us to the substance of the issue.

Mr MASTERS: Mr Jones, your analogy of not knowing or caring which bullet to duck is a good one. However, one of the responsibilities of this committee is to remind ourselves that there are literally hundreds of potential time bombs waiting to go off in metropolitan Perth because of all the dry-cleaning fluids that are being stored, probably illegally, in shopping centres and all sorts of other places. I mention that because although there is a problem with what happened in Bellevue, we must look at the big picture at the same time. On page 5 of your submission you referred to a group called "AARP" which is supposed to be the watchdog of the insurance industry and HIH Insurance. What is AARP?

Mr R. Jones: It is the federal body that is the regulator of the insurance industry.

The CHAIRMAN: It is the Australian Prudential Regulation Authority.

Mr MASTERS: At the bottom of page 5, you state -

... you can be, ... and you must be, ... very sure there are many many other sites and operations in WA operating in unacceptable manner ... in fact I am sure we can assist in starting up the list.

If other sites are operating in an unacceptable manner, I am sure that our committee would appreciate that list. Equally importantly, we need some information about your knowledge of the unacceptable operation of those sites. Pointing the finger at sites and saying that they are unacceptable is one thing; however, it is equally important for you to give us any information, details or comments about the unacceptable nature of their operations. That should not be forgotten.

Mr R. Jones: Certainly.

Mr MASTERS: As a small point, in the second paragraph on page 6, the surname of "Voile" is not spelt correctly. It is V-I-O-L. Far more importantly, two-thirds down the page, you state -

We discovered much later, ... after it was obvious the plant was causing pollution from day 1 of start-up ... that NO AUDIT had been carried out ...

Mr R. Jones: Yes.

Mr MASTERS: I am particularly interested in the "no audit" issue. We have received submissions from government agencies indicating that general audits had been carried out, or at least that is the way I interpret those submissions. Do you know for sure that there was no audit, or is it a gut feeling on your part? Do you have documentation to show that? On what basis do you make that claim?

Mr R. Jones: As far as the Bellevue site is concerned, when I met Fred Tromp, the director of pollution control, at a meeting in the Minister for the Environment's office a couple of months ago, he told me that there had been no audit.

Mr BOWLER: If there was no audit, how do you know that there were problems from day one and that the plant was causing pollution from day one?

Mr R. Jones: No; I said that it was non-compliant from day one.

Mr BOWLER: You said -

... it was obvious the plant was causing pollution from day 1 ...

Mr R. Jones: It was. I should say that it would have to have been, because there were no bunds in place. That was one of the first conditions imposed on the site. The bunds were not built.

Mr BOWLER: However, you have no evidence to prove there was pollution. If there was pollution, there were no bunds to catch it.

Mr R. Jones: Yes. I could have phrased it a little better.

Mr MASTERS: Will the committee be calling Fred Tromp as a witness at some point?

The CHAIRMAN: We will consider that. Returning to the audit of conditions, on page 7 you state -

We now know that NO MANDATORY AUDIT BY THE EPA/DEP TO CONFIRM THE CONDITIONS THAT WERE ATTACHED TO THE WORKS APPROVALS OF BELLEVUE, WERE EVER CARRIED OUT. (A BREACH OF THEIR OWN ACT)

HAD THIS SIMPLE TASK BEEN OBSERVED ... THEN ... ANOTHER REASON WHY WE WOULD NOT NEED TO BE HERE TODAY

Can you expand a little on the issue of the extent of the audit?

Mr R. Jones: The Environmental Protection Act requires the chief executive officer to be satisfied, before he issues a licence for a plant to be operated, that the plant has been constructed in a manner that ensures it meets the conditions set when the works approval was issued. In other words, the documentation that a company produces and submits to the EPA says that the plant will do this and this, it will not pollute the area because it is doing this and this, it is installing this equipment etc, and it is being built in this fashion. On that basis, the works approval - it is an approval to construct; not an approval to operate - is issued. When the construction is completed, the minister must be satisfied that everything has happened accordingly. That is done by way of an audit. In the Tiwest situation, 153 conditions for construction had to be met. However, no audit was carried out. By chance, 11 of those 153 conditions would have matched the audit - had there been one.

The CHAIRMAN: I note that you referred to that in your submission. Are you suggesting in your submission that there is a systematic failure to do follow-up checks of construction before operations of sites are approved?

Mr R. Jones: Yes, that is exactly what I am saying. I have seen this at local council meetings. The councillors sit there and spend lots of time approving a development. They set lots of conditions, and guess what? Nobody ever checks to see whether they are carried out, and many of them are not carried out.

Mr DAY: What evidence do you have to suggest that the DEP did not monitor the site?

Mr R. Jones: Which site are we talking about?

Mr DAY: The Bellevue Waste Control Pty Ltd site?

Mr R. Jones: I have not said that no monitoring was carried out. That was not my statement. I said that no audit of the works approval was carried out, which is a requirement of the Act.

Mr MASTERS: Was that prior to the works approval being issued?

Mr R. Jones: There were four different works approvals. This developed from something that was deemed to be fairly innocuous. By the play of words, it gradually became approved as something else.

The CHAIRMAN: For the record, you are alluding to the history of the site from 1987 and the number of changes to the operations of waste management on the site.

Mr R. Jones: The number of ways in which it was described. It kept changing, which allowed it to move in incremental steps and become much more dangerous.

Mr MASTERS: Are you saying that at no stage was an audit of the site and its strict compliance with the approval conditions carried out by the DEP?

Mr R. Jones: Correct, yes.

Mr DAY: Do you make that statement on the basis of all your research and examination of documentation since the fire?

Mr R. Jones: Yes. That applies not just to the DEP but to the Water and Rivers Commission as well.

The CHAIRMAN: Are you suggesting that none of the agencies with statutory responsibility for carrying out an audit of operating conditions imposed on the operators fulfilled its obligations?

Mr R. Jones: When the petroleum operations division of the Department of Minerals and Petroleum Resources issues a dangerous goods and explosive goods licence, there is a requirement under that licence that an inventory of the dangerous goods stored on that site be manifested on a daily basis, and a copy of that manifest shall be placed in a container on or near the entrance to the property. There shall be a map of the premises and it shall be marked with the location of the dangerous goods within the premises, so that in an emergency, when the firefighters, ambulance officers or police arrive, they have access to that manifest and can determine what chemicals are on-site, what quantity is on-site and where it is stored. Not once in 13 years was that done.

Mr BOWLER: How do you know?

Mr DAY: You are saying that no auditing was carried out, but you are not suggesting that no monitoring was carried out. Is that correct?

Mr R. Jones: What you are really saying is that I am making an assertion.

The CHAIRMAN: No.

Mr R. Jones: Yes, it is.

The CHAIRMAN: The question is an important one. The line of questioning that I started was to determine what knowledge you had about the failure of agencies to carry out audits of construction and operational conditions.

Mr R. Jones: I think I have answered that one.

The CHAIRMAN: Mr Day's question suggests that, despite your view about the failure to complete that statutory function, the other statutory functions and responsibilities of a number of agencies include periodic monitoring of the site. His question relates to the periodic monitoring, not to the audit of conditions.

Mr R. Jones: I will give members an instance.

Mr DAY: I just want to clarify that. Are you agreeing that monitoring or inspections of the site were carried out from time to time?

Mr R. Jones: If it was, it was on very rare occasions.

Mr DAY: Is there any substantial difference between auditing, which you say was not carried out, and monitoring, which was carried out at least occasionally?

Mr R. Jones: In 1992-93, condition W6 or W4 - I am not quite sure which - imposed by the Water and Rivers Commission required that monitoring bores be in place on the site and that those boards be sampled on a six-monthly basis. The analysis of the sample taken was to be forwarded to the director of pollution control at the DEP. It was never done - not once. I got that information from the Water and Rivers Commission yesterday afternoon.

Mr DAY: As indicated earlier, we will be hearing from agencies such as the Department of Minerals and Petroleum Resources, the DEP and so on. The written information we have been provided with indicates that there was a strong degree of interest. We will examine whether it was done as well as it should have been.

Mr R. Jones: I take your point, Mr Day. At the public meeting, which was held downstairs, we were shown photographic evidence of the appalling condition the site was in before the fire. It was described in shocking terms by people. I asked Dr Bryan Jenkins how many times officers from his department had visited the site. He thought for a moment and said that it was between 20 and 30 times in the past 18 months to two years. I ask you, Mr Day is there a difference between visiting the site and actually monitoring the site? Just because people from the DEP were there does not mean they were monitoring it. If they were there and did not monitor it, this statement is valueless. Worse still, if they had gone there and monitored it, that makes them all the more culpable.

Mr DAY: You also must take into account the role of the former Department of Minerals and Energy, which had more of a direct role over what was happening on the site. Given that we all want to do whatever we can to ensure that situations like that which occurred in Bellevue do not happen again, what overall comment can you make about how such a situation should be prevented in the future?

Mr R. Jones: I would not like to attempt to answer that right now, because it would be a fairly lengthy answer. Many things must be considered to prevent an incident like that happening again. As I indicated in my submission, one of the main things is that the cultures within these regulatory departments be changed, because it is the cultures that have caused this.

The CHAIRMAN: Thank you, Mr Jones. If we can provide you with some time at a later date, you might consider thinking about that question in broader terms and being prepared to comment on it.

Mr R. Jones: I intend to.

The CHAIRMAN: I repeat our appreciation of your willingness to come forward and we thank you for your submission today. We look forward to receiving your substantive submission next week.

[The witness retired.]