

ECONOMICS AND INDUSTRY STANDING COMMITTEE

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

FOURTH SESSION

Members

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

MOLLOY, MS PATSY,
Clean Air Committee,
examined:

The CHAIRMAN: Thank you for attending the committee. Please note the following requirements -

1. The Committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the House itself demand.
2. Even though you are not required to give evidence on oath, any deliberate misleading of the Committee may be regarded as contempt of Parliament.

I accompany that harsh warning with a welcome. Have you completed the details of witness form?

Ms Molloy: Yes.

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

Ms Molloy: Yes.

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

Ms Molloy: Yes. My official birth certificate says my name is Patricia, but I have been known around these parts for many years as Patsy. I am the convenor of the Clean Air Committee.

The CHAIRMAN: The committee has received your submission. Do you propose to make any amendments to it?

Ms Molloy: I want to add to it.

The CHAIRMAN: Do you wish your submission and the additions you read out today to be incorporated into the transcript?

Ms Molloy: Yes, please. The preliminary notes are more about the composition of the committee of inquiry. I am appearing before this inquiry as a volunteer of the community organisation, the Clean Air Committee. I object to the presence of the Deputy Chairman of this committee of inquiry, Mr John Day, the previous Minister for Health and Minister for Emergency Services prior to the fire and more significantly during the operations of the Hazardous Waste Solutions facility in Bellevue. Our committee has raised these objections by letter with the Economics and Industry Standing Committee and received a reply yesterday acknowledging the issues raised and stating that each member has an obligation to declare potential, perceived or real conflicts of interests. I reiterate the Clean Air Committee's letter requesting that Mr John Day be called as a witness to appear before this committee because, as a minister of the Crown, he was involved in the cabinet deliberations that granted \$100 000 to provide some clean-up and ensure emergency fire safety precautions were undertaken at the Hazardous Waste site. If this is not seen as a conflict of interest, I have been directed by my committee to ask the inquiry what would possibly constitute a real conflict of interest.

On a more personal note, have any local health authorities appeared before this committee to talk about toxic exposures, reports of illness or any other health matters? In my employment I work for a local health organisation which receives funding from the health department. The Deputy Chair, as previous and now shadow Minister for Health, is in an obviously extremely powerful position regarding the administration of very limited health funds and in directing policy. This may be seen

as intimidating to professionals who may believe their funding could be affected by submitting information to this inquiry. Does this constitute a perceived conflict of interest? Has it been taken into account that this may appear to be an intimidatory process, which will automatically prevent some people from submitting evidence? I am sure that in the collection of information already the committee will have heard of the distressed reaction of residents, property owners and business owners to the disaster. The public meetings organised by the Alliance for a Clean Environment, of which our committee is a member, was the first opportunity these people had to air their grievances.

The community groups involved have carried the burden of support for this community, which has felt frustrated, lied to and avoided. If the presence of the former Minister for Health goes unchallenged, whatever the findings of the committee, the local community will perceive the findings as biased once again, to protect the government authorities who were responsible for so many mistakes, oversights and miscommunications. I am not personally intimidated by the minister's presence but I find it a potential, perceived and real conflict of interest. At some stage of the proceedings he should give evidence to this committee in his capacity as former Minister for Health as defined in paragraph 1 of the terms of reference for this inquiry. Will you not respond to that?

The CHAIRMAN: Not only have we responded in writing to you and a number of others who have raised this matter but also it has been the subject of considerable discussion among committee members. We have discussed it already today with a number of witnesses. The answer is the same in all cases and is constituted by the things you might have heard today. Were you here earlier?

Ms Molloy: Yes, I have been here all day.

The CHAIRMAN: You will know, firstly, that it has been considered and, secondly, that the committee does not believe there is any substance to the view that his hearing the evidence before this committee constitutes a conflict of interest. If at any time during the committee's deliberation any member of the committee has a conflict of interest, the obligation is on that member to declare that and excuse himself from the deliberations and work of the committee. I will not get into a debate about it.

Ms Molloy: Does that mean that he will not be called as a witness before the committee?

The CHAIRMAN: There are no grounds at this stage for calling Mr Day as a past member of a 17-member Cabinet. There may be cause to inquire into former cabinet ministers' behaviour. When we get to that we will decide who that will be and how they will be called to give evidence. At this stage of our hearings we have not finalised our view on how past cabinet deliberations will be the subject of consideration of this committee. It is important to reiterate an observation made by a committee member earlier. Four other members of the committee are undertaking this inquiry, apart from Mr Day, who seems to be the focus of some attention by virtue of his membership of Cabinet in 1999-2000. I ask people to consider that the four other members are individuals with very clear obligations on themselves to do the very best they can not only for the work of the Legislative Assembly but also for the people to whom we are reporting; that is, the people of Western Australia. I am confident that, with its present constituted membership, this committee can carry out its work in a fair and open manner. If there is any reason that cannot be done, the member who cannot carry on in that manner will withdraw from the process.

Mr MASTERS: Is there any reason you think the four of us, other than John Day, about whom you have concerns, could not deliver an independent report? Putting aside Mr Day's presence, do you have a problem with the other four of us?

Ms Molloy: Not particularly. I think our concern is about processes. The fact that Mr Day is Deputy Chair of this committee means that if for any reason Mr McRae were not in the Chair, presumably Mr Day would direct the questioning.

The CHAIRMAN: To the extent the Chair is able to direct the questions, if you observed as you say you have today, you will know that I have not been directing members' questions.

Ms Molloy: One does not know because we have not seen Mr Day in the Chair. I am concerned about health information that is being submitted or requested or is part of the picture. A \$30 000 health survey is being undertaken by telephone. Concerns have been raised by some people in the community that some of the people who live in that area do not have telephones. They may have mobile phones and can perhaps be tracked in that way.

The CHAIRMAN: What does that have to do with Mr Day?

Ms Molloy: I am saying that when very powerful people appear on a committee of inquiry who may have a vested interest in the outcome, irrespective of whether they are going to be fair-minded in their approach, the community could perceive that there is a conflict of interest. Whether this committee recognises that a conflict of interest exists that is perceived, real, potential or otherwise, only community groups such as Alliance for Clean Air are seen to be able to gain independent evidence by investigations carried out in a public sphere.

Mr MASTERS: I am not sure whether Ms Molloy is addressing the issues we are concerned about. Did I interpret your statement earlier to imply that Mr Day is the shadow Minister for Health?

Ms Molloy: I understood that. Maybe it is not true.

Mr MASTERS: He is not.

Mr DAY: Neither am I the Minister for Health, which is probably more relevant.

Ms Molloy: He was at the time.

Mr MASTERS: He was not Minister for Health at the time. Some time during the 10 years that Hazardous Waste Solutions has been operating Mr Day was the health minister. I understand he was also Minister for Emergency Services for a period prior to the event.

You asked whether any other local health authorities were appearing. By that do you mean local government or independent experts?

Ms Molloy: I wonder whether, for example, a member of the Swan Hills Division of GPs Ltd will appear before the committee. Some of the GPs dealt with people who complained of symptoms immediately after the fire. I am not sure that all of those complaints were recorded.

Mr MASTERS: Who are the local health authorities you would like to have appear before us besides the Swan Hills Division of GPs?

Ms Molloy: I wonder whether people who became ill on the night of the fire, such as firefighters, attended Swan Health Service, which has an emergency department. I wonder whether they reported any illness they may have felt. In my experience, people who suffered serious health effects such as nausea, headaches and skin rashes for some weeks after the fire have not considered them to be significant enough to report to -

Mr MASTERS: Who has not considered them health issues?

Ms Molloy: Those people.

The CHAIRMAN: The people who suffered those effects?

Ms Molloy: The people who suffered those effects have connected them with the fire because they only appeared after the fire and remained for a couple of weeks. However, they have been shy about reporting them to doctors.

The CHAIRMAN: I am not trying to stop this discussion, because it is important. However, I have given you my answer in relation to Mr Day. I hope you understand that he is not the shadow spokesperson on health and neither does he have any role in the Government now, I am very

pleased to be able to say, unfortunately for him. The issue of a telephone survey of health services has nothing to do with Mr Day, nor with this committee generally, if it is being conducted now.

With regard to other people or agencies that you believe need to provide evidence to this committee, the committee is interested in a list of people whom we should write to and invite submissions from. As you heard earlier, we are not summoning people at this stage. We are conducting this inquiry on the basis of inviting submissions on the same basis as you are appearing and as has been the case with previous witnesses who have provided that submission. We would be pleased to hear, either in writing subsequently or during your evidence now, whether you can supply a list of agencies, authorities or services dealing with health services that you think have evidence to provide. We would be more than willing to take on board your suggestions and consider inviting them directly to make submissions and to appear.

By virtue of its authority from the Legislative Assembly of the Parliament of Western Australia, this hearing affords a degree of protection to anyone who appears before it. If anyone can identify any form of intimidation, I want to hear about it. I will not allow that to continue, because it is not appropriate. I want it on the public record that if there is evidence or suggestion of intimidation, it should be brought to my attention directly, by letter to me or by phone call to the staff of the committee so that we have knowledge of it.

Ms Molloy: I appreciate that the committee has now explained to me that I might be satisfied with the Chairman's response. However, I am still arguing on the basis of the way community perception works. The process even of reading this pamphlet containing guidance on making a submission and giving evidence to a parliamentary committee could be seen as excluding quite a few members of the community. I was approached by people who wanted to make a submission but who were confused about how to do so.

The CHAIRMAN: Have they sought assistance?

Ms Molloy: Yes, from me.

The CHAIRMAN: Have they approached committee staff for assistance?

Ms Molloy: I do not know. There is a phone number on the pamphlet.

The CHAIRMAN: If people express that concern or difficulty, I encourage you to encourage them to approach the staff of the committee.

Ms Molloy: I invited one person to come today but she did not feel that she wanted to. We are not sure about her reasons.

The CHAIRMAN: It is a very difficult thing. We need to take evidence on a very complex matter. I can understand that some people do not feel confident or able to make a valid contribution. However, as one of the earlier witnesses said, this committee must have regard for the "great unwashed", although I am not sure I would use that expression. In a colloquial sense, it is an important observation that, regardless where people come from, if they have something to say, we are interested in hearing it. If that must be communicated more widely, I would be pleased if you could pass on that message.

Ms Molloy: I will continue to encourage people.

Mr DAY: On the conflict of interest issue, did you hear my comments on that subject earlier this morning?

Ms Molloy: Yes I did. I have been listening and taking note of everything. However, I thought it was still a valid issue for me to raise. In the East Metropolitan Region there are 30 fewer GPs than in the average Australian region. We do not have sufficient health services, which can cause people within health services to sometimes be somewhat loath to be seen to be making waves in any way.

Mr DAY: You heard my comments earlier, so I will not repeat them. I live in and represent in Parliament part of the East Metropolitan Region and I have a strong interest in ensuring the interests of this region are strongly heard. I think we are on common ground there.

The CHAIRMAN: Now to the substance of your submission and the additional points you want to raise.

Ms Molloy: I will table the extra appendix to my original submission. Most of it is about planning processes, which have probably been referred to in other people's submissions and will be raised later. It also refers to the involvement of the City of Swan in planning; the Department of Environmental Protection; public health; the Department of Minerals and Energy; the role the owner of the site, Dr Jeff Claflen, had in determining options for hazardous waste disposal; and whether other options were explored because of the stockpile at the Hazardous Waste Solutions site.

The impression I got from the public meetings was that all the problems involved in this fire fell between the gaps of the various government departments. Brian Jenkins came to the second meeting and said he could not test on site due to section 73 of the Environmental Protection Act; he could only test off site because the costs of the test could be recouped from insurance.

Mr DAY: Did he not argue that he did not have the legislative authority? Whether we accept that might be another issue.

Ms Molloy: That is right from my understanding, but he had permission of the owner of the site. When public authorities are dealing with major disasters - it was not just a disaster for Australia, it was a world-class disaster - it is not a matter of agencies sticking only to the particular sections of legislation covering their operations. There could have been a much more flexible approach to the whole emergency operation and the contact with the public. People who owned places that were burnt out were not contacted until we held a public meeting on 27 February, a couple of weeks after the fire. They had not even received a phone call. One man said that he had attempted to contact several government departments to ask whether it was safe for his workers to return on site, but he was told to make up his own mind.

The CHAIRMAN: Can you provide the committee with the name of that employer?

Ms Molloy: I believe that person has made a submission. I do not have his permission. I could find it in the minutes, but I prefer to get his permission.

The CHAIRMAN: That is worthwhile.

Ms Molloy: Lots of people were filming the meeting, so other people should have that information. The disaster occurred due to a build up of errors over a long time. My impression is that, by sifting through the evidence, people will be able to use small sections of legislation to account for procedures they have or have not followed and that an inquiry will not necessarily address our approach to the disaster in a global sense.

The community has been staggering from the Omex Petroleum Pty Ltd clean-up and remediation, which was not done well. I understand that someone from the DEP has been in the eastern States claiming at various conferences that the clean-up was world best practice and that an extremely good job was done. The impression gained by people here is that that was not the case.

The CHAIRMAN: Where did you hear that claim?

Ms Molloy: I think it was a conference in Melbourne. I receive a newsletter from National Toxics Network. This community has experienced the Omex problem and clean-up; the Waste Management fire has occurred and the Midland Railway Workshops is about to be cleaned up, which is extremely contaminated. I was a representative on the Swan Valley Air Quality Committee for a year when the members of Alliance for a Clean Environment were saying we should be examining a site in Bellevue. We were meeting every month trying to sort out problems with the airshed in the Swan Valley. We had probably three workshops at the end of that year with

which I became frustrated because they were about creating openness and honesty between government departments and community representatives and starting afresh. Catherine Harrison from the DEP, who I think is the signatory of the licence conditions of the Hazardous Waste Solutions facility, sat on the committee with me as a community representative and said that we should be open and honest about what constitutes threats to air quality in our region. However, she never mentioned one word of this site. Meanwhile Lee Bell and Jane Bremmer, with whom I work closely, said that we should look at this, but we were very busy with that committee.

Mr BOWLER: When did you become aware of the Waste Control Site in Bellevue?

Ms Molloy: I think it was mentioned some time in 1999 or 2000.

Mr BOWLER: When did you become aware of what was on the site and what possible risks it posed?

Ms Molloy: I knew none of the detail. I think Lee Bell said that he had taken photographs of it and that concerns had been expressed about it. We discussed at, I think, one ACE meeting whether we should try to run some extra publicity on it. Lee and Jane were involved in the Omex issue and I was involved in the Swan Valley Air Quality Committee. All the volunteers involved in these issues are under a fair amount of pressure because they participate in their spare time. In fact we did not have the time to give it proper attention. However, I resigned from the Swan Valley Air Quality Committee out of frustration because I felt that the DEP was not acting cooperatively with the community. Over a period of years of working in this area, the difficulties have become more obvious. When we find out about something like that, we must dig up material on it then we must ask the DEP for monitoring results. That information may or may not come and, if it does, it may take up to six months to a year before we get the results. Those results are often inconsistent with what would be logically expected. When they are queried the defensive processes begin and we feel there is a "close down". People do not return phone calls, etc.

Mr MASTERS: Several witnesses have said that they had real trouble getting information out of the Department of Environmental Protection, the Department of Minerals and Energy and others, so they approached Hon Jim Scott. Why did you not approach your local members of Parliament for their help?

Ms Molloy: The Greens are known for their environmental -

Mr MASTERS: Why did you not go to your local member of Parliament, whose sworn duty is to represent you in Parliament?

Ms Molloy: I have gone to Michelle Roberts on a number of occasions. Those people are extremely busy. My impression of Hon Jim Scott's office is that he and his staff have a depth of understanding of knowledge on toxic issues. They have done a fair amount of research and they can pick up on technical information and run with it quickly, whereas local members have more constituency issues on their plates. It is a matter of knowledge and background.

The CHAIRMAN: Is it a case of member shopping for the best result?

Mr MASTERS: I am not trying to suggest there is a problem with the local member.

The CHAIRMAN: I note that the member for Midland was here earlier.

Ms Molloy: She came to our meeting and provided a very good summary on what had occurred at the first public meeting. It is also a matter of immediacy. If we raise an issue and are seeking files or copies of monitoring results or whatever, there is an immediacy about the story in terms of getting some local press. If we must wait six weeks before anything happens, the story is lost and people cannot remember the details of situations. The advertisement with the dates this hearing would be held in this area was a small article on page 2 of the *Hills Gazette* two or three weeks ago. That was unlikely to provoke enough impetus to fill a public gallery.

The CHAIRMAN: It is not for the want of trying. We gave the information to all local newspapers and at one point we advertised for submissions. I acknowledge that, in this year of volunteers, to some extent the committee relies on the efforts of people in communities to use some of their spare time to take an interest in community events in their region and to take action. We appreciate what you have done in that regard.

Ms Molloy: I did not mean that as a criticism of the committee. For community members on the ground involved in these issues, processes are important and the timing of press releases, etc becomes a tactical issue. It is complicated.

It is important to direct information in a manner that is relevant to the people who are meant to receive it. People are discriminated against directly and indirectly in many ways. An obvious example is that when things get technical they switch off; therefore, a gap occurs between their perceived right to have good health and their ability to demand the right kind of response from their doctor or from the Department of Health.

The CHAIRMAN: Is it your submission that some plain language explanations are essential to include people?

Ms Molloy: Yes. Also, the first part of committee hearings could be oral hearings not involving written submissions. Sometimes even the formality of a hearing can discourage people.

Mr MASTERS: At the bottom of the fourth page of your first submission you state -

The only action achieved by June was the Health Survey conducted by ACE members in response to the Health Department's claim that no-one was anxious about health effects.

Can you provide a copy of the health survey?

Ms Molloy: It is in the ACE submission.

The CHAIRMAN: Ms Molloy has been informed that the ACE people will be supplying that in their submission.

Ms Molloy: Yes.

Mr MASTERS: Will you submit a set of questions that you would like the committee to ask **Mr DAY** if he were to come before the committee as a witness?

Ms Molloy: Absolutely.

The CHAIRMAN: I invite you to talk now directly to the written submission you have provided to us. I know you were flicking through a range of additional material you were going to provide today.

Ms Molloy: I did this at midnight. I have raised already the Swan Valley Air Quality Committee and some issues about whether any discussion occurred about disposal at Red Hill of some of those wastes. I am not sure whether that was done. It was rumoured to have occurred.

The CHAIRMAN: What page are you referring to?

Ms Molloy: I am referring to page 1 of the original submission headed "Events leading up to the Fire".

Mr MASTERS: Are you saying there should have been disposal of material at Red Hill to get material away from the Bellevue site or that there was illegal disposal at Red Hill?

Ms Molloy: I am not alleging there was illegal disposal of material at Red Hill. I was wondering whether there was any movement of material from the Hazardous Waste facility to the Red Hill site.

Mr MASTERS: Presumably you mean legally?

Ms Molloy: Yes. My understanding is that there might have been some disposal there. I am suggesting to the committee that it might be worth considering.

Mr MASTERS: If it was legal, why would our committee be interested?

Ms Molloy: If some of those materials were able to be disposed of at Red Hill, which, as a class 4 site, is an approved site and which has much more environmental -

Mr MASTERS: It is a class 3 site.

Ms Molloy: There was an article in the local paper a few years ago that it was a class 4 site. I heard there would be cells for class 4 disposal. I am not sure whether material was sent there. I am sure Dr Claflen would know whether it was.

Mr MASTERS: If that occurred, would you be concerned about that or that Red Hill was not used more to dispose of waste in Bellevue?

Ms Molloy: The list of chemicals released from the fire should not have been disposed of at Red Hill. However, because Dr Claflen had many different streams of waste, I wonder what, if any of them, were disposed of at Red Hill and whether any arrangement was made to licence Red Hill, or investigations held into whether that site could have been licensed to take some of Dr Claflen's waste stream.

We are now looking at some of the solutions to this problem. It appears to me that Dr Claflen has been on committees that determined waste management in Western Australia. I wonder whether all options were fairly investigated. The Eastern Metropolitan Regional Council runs the Red Hill landfill site. It has a very good reputation for its standards and procedures. Were all options considered for disposal of the waste stream?

I have major concerns about the evacuation processes. The plume drift and the modelling of the plume are of major concern. Air inversions in this area are common and that has been an issue with brickworks emissions. From memory, that night was a reasonably still night, so there would have been drift. There are questions about the wind direction. One article in the paper said the plume moved in two directions at once, which I thought was a new concept. The article may have meant that part of it was trapped by the inversion and another part rose higher and became subject to other winds. The modelling did not take into account explosions and fireballs, which cause a different effect. I am also concerned that the amounts differed from 400 000 litres, estimated by the DEP, to possibly one million litres, estimated by workers and according to information received from Lee Bell. The fallout of one million litres would have a profound impact on the health of people living in the fallout zone and downwind of the plume. Contaminated site risk management deals differently with people who stay at home all day with two-year-old children who eat dirt than with other people. Toddlers consume dirt and it is known that soil contaminants bio-accumulate such as lead, cadmium, and nickel. If they are in the soil, children get large doses. That is now taken into account in risk assessment of communities that have been exposed to chemicals. I am not aware of any risk assessment undertaken on the community in Bellevue or of any thorough investigation of the effects of the fire. Some women in the community have decided not to have children on the basis of chemical exposure.

Mr DAY: Can you summarise how you think management of this waste could be done better?

Ms Molloy: A broader-based approach by departments could be taken. Rather than complaining, as they did at the last few meetings, that gaps in the legislation prevented them from taking action, they should get together to resolve some of the difficulties. The DME, the DEP and the Department of Health should consider possible options for reasonably safe alternatives for disposal of waste and actively progress ideas for safe disposal of chemicals. They should be examining cradle-to-grave legislation; that is, companies that produce chemicals being responsible for chemicals until they are disposed of safely. Those bigger picture issues must be considered. A community should not have to carry the whole burden of the results of dry-cleaning, for example. Industries that produce dangerous chemicals should be taxed according to the cost of disposal options. We must get real about the end product of chemicals. Even the process of watering down dry-cleaning fluid waste

and flushing it through a pipe to Woodman Point is still not disposing of it. The stuff is still around and leaching into our air and ground water. It is now going into all our water at Woodman Point.

Mr DAY: Where is it going into ground water?

Ms Molloy: The ground water level in Bellevue is fairly high and it is right next to the Helena River.

The CHAIRMAN: Are you talking about the Bellevue site rather than Woodman Point?

Ms Molloy: At Woodman Point our whole sewerage system pours into the ocean.

Mr MASTERS: That happens after treatment. Primary, secondary and often tertiary treatment occurs before that water is discharged. I would be very surprised if the dry-cleaning fluid could be measured in that water by the time it gets to the outlet.

Ms Molloy: We have a nice big sea.

Mr MASTERS: I am referring to measuring the water before it is flushed out to sea. Unless it is a chemical that does not biodegrade, it will degrade during the sewerage treatment process.

Ms Molloy: Chemicals do not necessarily biodegrade; they bio-accumulate. That has not been considered.

Mr MASTERS: It is a straight-forward task to collect and analyse soil and water samples. Even if we do not know what chemicals to look for, a broad-based analyses can be undertaken.

Ms Molloy: Yes. After the fire, no attempt was made to contact people who had water tanks or backyard chooks to suggest that they should not eat their eggs and should empty their water tanks. I was concerned about the livestock at the Midland saleyards.

The CHAIRMAN: Is there something you want to say in closing? Your points are on record; you do not need to go back over them.

Ms Molloy: I hope that this inquiry does a thorough job. It is an opportunity for it to make recommendations to greatly improve procedures surrounding these disasters. Disasters such as the Bellevue disaster continue to happen to the same people and it becomes too much of a load to bear. These people are now faced with the clean-up of the railway workshops, which again will be a very difficult, long and unhealthy process. Although it is a good thing that we are cleaning up, we must address the impact on individuals who must make decisions about how they deal with cancer and other unhealthy aspects of their lives that we as a society should not impose on them.

The CHAIRMAN: Thank you very much for taking the time to make your submission and to attend this hearing. When we have a chance to read your other material we may ask you to come back.

[The witness retired.]