

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

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
ON WEDNESDAY, 17 SEPTEMBER 2003**

**SESSION 2**

**Members**

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

**MURPHY, MR KIERAN**  
**Strategic Management Adviser,**  
**Premier's Office, Governor Stirling Tower,**  
**Examined:**

**The CHAIRMAN:** I apologise for the fact that we are a little bit late and for keeping you waiting. On behalf of the committee I would like to welcome you to the meeting. To begin with, would you please indicate the capacity in which you appear before the committee.

**Mr Murphy:** I was the Premier's principal media adviser at the time of the passage of the legislation.

**The CHAIRMAN:** You have signed a document titled "Information for Witnesses". Have you read and understood that document?

**Mr Murphy:** 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 referred to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them. 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 hearing. Please note that until such time as the transcript of your public evidence is finalised the transcript should not be made public.

Did you have any part in the Government's response to the Gordon inquiry?

**Mr Murphy:** Only as the Premier's media adviser at the time. Yes.

**The CHAIRMAN:** What was the part that you took?

**Mr Murphy:** Well, you know, reading the report, preparing the media statement. Just the usual, I guess, business that a media adviser would be expected to perform in the circumstances.

**The CHAIRMAN:** Were you present during any of the deliberations regarding the Government's response?

**Mr Murphy:** No, I would not have been. No.

**The CHAIRMAN:** You would not have been or can you tell me that you definitely remember that you were not?

**Mr Murphy:** I am pretty certain that I can say that I was not.

**The CHAIRMAN:** Did you offer any suggestions as to any particular response that was made to the Gordon inquiry?

**Mr Murphy:** No I would not.

**The CHAIRMAN:** Were you aware of the Government's rejection of the Gordon inquiry recommendation that the State enter into an MOU with the Lord Street community?

**Mr Murphy:** I was.

**The CHAIRMAN:** When did you become aware of that?

**Mr Murphy:** It is going back but I think at the very least it would have been when I was told what the Government's response to the Gordon inquiry would be and was asked as part of my duties therefore to prepare media statements and the associated material.

**The CHAIRMAN:** Did you regard that rejection of the Gordon inquiry recommendation as a matter that you had to deal with as part of your media recommendation?

**Mr Murphy:** Yes, it was certainly a matter that I anticipated the media would have been interested in because I think, from memory, the vast majority, if not all, of the other recommendations would have been accepted.

**The CHAIRMAN:** It was significant in that it had been rejected?

**Mr Murphy:** It was significant because it had been rejected and I think because I anticipated that it would be an issue because there was a view in government that it was probably the one recommendation that was not acceptable.

**The CHAIRMAN:** Did you discuss it with any persons in government as to why it had not been accepted?

**Mr Murphy:** No, I do not think I did.

**The CHAIRMAN:** I would have thought that the first thing you do is to ask why did the Government reject this one.

**Mr Murphy:** I think it would have been pretty apparent to anyone who actually read it.

**The CHAIRMAN:** What was the reason?

**Mr Murphy:** Well, I would imagine that the reason would have been because it was seen as a soft response to the particular problems in the Swan Valley Nyungah Community.

**The CHAIRMAN:** A soft response?

**Mr Murphy:** Well, the recommendation was a piece of paper.

**The CHAIRMAN:** I see. The recommendation was a piece of paper. The Government's response was in fact another piece of paper, was it not?

**Mr Murphy:** No. The memorandum of understanding was essentially a piece of paper.

**The CHAIRMAN:** What did the Government do instead?

**Mr Murphy:** From memory I think the action the Government took was effectively to - was it not to revoke the management order and replace it with a new management order that guaranteed access, or was supposed to guarantee access for all government officers going about their lawful duty?

**The CHAIRMAN:** That was seen as a strong response, was it?

**Mr Murphy:** It was by some, yes. It was seen as a better response.

**The CHAIRMAN:** You contrasted it with the recommendation of the Gordon inquiry being a soft response. This you saw was not being a soft response. Does that mean then that it is a harder response?

**Mr Murphy:** I think you would say it is probably a better response.

**The CHAIRMAN:** Was it discussed at any time that the Government needed to be seen as responding in a tough way to what was happening there?

**Mr Murphy:** Not to my knowledge.

**The CHAIRMAN:** Thank you. Were you aware that Mr Bropho repeatedly asked the Government to enter into that MOU?

**Mr Murphy:** I was aware of regular media statements, if you can call them those. Perhaps letters - it was difficult to tell quite frankly what they were that arrived on the Premier's floor. They seemed to be complaining about one thing or another. I had seen at least a couple that, you know, called for the Government to enter into the memorandum of understanding. Yes.

**The CHAIRMAN:** Did you have any involvement with the Government's removal of the schoolroom from Lord Street?

**Mr Murphy:** No, I did not.

**The CHAIRMAN:** When did you first hear of media interest in further alleged incidents at Lord Street after the Gordon inquiry?

**Mr Murphy:** Well, it would have been late April. I cannot be specific, but it would have been late April.

**The CHAIRMAN:** Do you keep a note of contacts like this?

**Mr Murphy:** No, not always.

**The CHAIRMAN:** Not always. Do you have a book -

**Mr Murphy:** It depends. Look, I get telephone calls, Mr Chairman, at all times of the day -

**The CHAIRMAN:** I quite understand.

**Mr Murphy:** If I have a notebook with me, I will jot down a note, if I must, on the back of a bit of paper.

**The CHAIRMAN:** You do not keep a regular book like some media officers do of regular contacts?

**Mr Murphy:** I do.

**The CHAIRMAN:** You do.

**Mr Murphy:** Yes.

**The CHAIRMAN:** Can we have that book please? Would you like to check first of all whether it has any relevance to this? The first thing I would like you to do is check that book for that relevant period and determine what comments you have made at that particular time and then I would like you to forward -

[9.10 pm]

**Mr Murphy:** What comments I have made, did you say?

**The CHAIRMAN:** Any notes you have made that will give us some sort of insight.

**Mr Murphy:** I will certainly do that.

**The CHAIRMAN:** Thank you. You think it was late April. We have already had evidence from Ms Warbey that she spoke to you on 29 April, and advised you that she had received a media inquiry regarding the Swan -

**Mr Murphy:** That would be right. The first contact I had was via Lynsey Warbey, who I think told me that she had been contacted by the public affairs or public relations officers from the Department for Community Development.

**The CHAIRMAN:** Did they tell that that was the result of an approach to them by the media?

**Mr Murphy:** Yes.

**The CHAIRMAN:** Did she tell you the name of the media person?

**Mr Murphy:** She did.

**The CHAIRMAN:** Who was that?

**Mr Murphy:** Colleen Egan from *The Australian* newspaper.

**The CHAIRMAN:** How did you respond to having been told that?

**Mr Murphy:** I essentially left it at that. I said, "Thanks very much for the advice". I took it. I did not contact Colleen. I thanked Lynsey for letting me know and I guess just stored it away in the back of the mind and probably expected a telephone call at some stage from Colleen. I was not going to approach her until she -

**The CHAIRMAN:** Did you advise the Premier?

**Mr Murphy:** Yes, I did advise the Premier.

**The CHAIRMAN:** Did you receive any other notifications that other departments had been spoken to?

**Mr Murphy:** I may have at the time been advised by the then Minister for Indigenous Affairs' office that they had also been advised, but I cannot be sure about that. I know for certain about Lynsey Warbey, but I cannot be sure about the Minister for Indigenous Affairs. In fact, Lynsey might have advised me of that. Of the two, I do not know whether I was advised separately.

**The CHAIRMAN:** Right. It is somewhat circuitous, but we were advised that at some stage you spoke to Mr Walsh about media contacts.

**Mr Murphy:** That would be right, yes.

**The CHAIRMAN:** Did you tell him that there had been a number of contacts?

**Mr Murphy:** I could not tell you for certain. I know that I was advised by Lynsey. I do not know whether or not Lynsey told me there had been one contact or whether there were more. I have an inkling that what she said was that Colleen had rung more than one agency. I am only aware that it was Colleen Egan but she may well have contacted more than just one agency.

**The CHAIRMAN:** In fact, Ms Warbey's transcript is now published. Page 6 of the transcript will deal with that if you need to refresh your memory. Do you know the strategic meeting that took place on 1 May?

**Mr Murphy:** I do.

**The CHAIRMAN:** Did you attend it?

**Mr Murphy:** No, I did not.

**The CHAIRMAN:** Were you briefed about it afterwards?

**Mr Murphy:** I was briefed about some matters.

**The CHAIRMAN:** What matters were you briefed about that are relevant to the inquiry?

**Mr Murphy:** About the matter that you are inquiring into. I was briefed about the discussions about the Swan Valley Nyungah Community.

**The CHAIRMAN:** Were you surprised at what the Premier told you?

**Mr Murphy:** Well, what did he tell me? What do you mean by that?

**The CHAIRMAN:** First of all, let us go back a bit. Did you have any discussion with him prior to him going into that meeting?

**Mr Murphy:** Yes, I did, and therefore I would not have been surprised after when he spoke to me.

**The CHAIRMAN:** We have had evidence that he raised the question that there had been media interest. Would you have been the person who told him of that?

**Mr Murphy:** Yes.

**The CHAIRMAN:** Did you discuss with him what reaction he might have to that?

**Mr Murphy:** Do you mean prior to the meeting or going in there?

**The CHAIRMAN:** Yes.

**Mr Murphy:** From memory, I think I got him just before he went in there, and it was a case of he was gathering his papers and about to walk in there. I think it was a case of getting him and following him along the corridor and saying, "Look, there have been some media queries about the Swan Valley Nyungah Community. I am told that Colleen Egan is of a view, or has contacts or sources that tell her, that nothing has changed; that government agencies are having problems getting access to women and children there; that there have been specific allegations that have been made about incidents. You have got the DGs in there - the directors general - check it out." He did and spoke to me afterwards.

**The CHAIRMAN:** Did you impress on him that he might have to act somewhat urgently in view of the media interest?

**Mr Murphy:** No, I cannot recall. It was literally a 10-second conversation before he was walking in there. I had an opportunity to grab him before he went into a meeting and that was about the extent of it.

**The CHAIRMAN:** You certainly would not have given him any impression that action was urgently required because of the media interest?

**Mr Murphy:** I cannot recall specifically doing that.

**The CHAIRMAN:** I think you would recall if you had said it though, would you not - that sort of advice?

**Mr Murphy:** I think I probably would, yes.

**The CHAIRMAN:** Yes. But you do not recall it. Do you think that would be some reasonable indication that you did not give that advice?

**Mr Murphy:** It would not necessarily stand in my mind that I had or had not.

**The CHAIRMAN:** Okay. So he came out of the meeting. What did he tell you about?

**Mr Murphy:** I cannot actually remember having a specific conversation with the Premier, but it probably would have been with the Premier and Mr Walsh. He would have told me that some of the directors general confirmed that there were problems with access in the community and that they could not give an assurance that, you know, the safety of the women and children could be guaranteed.

**The CHAIRMAN:** This is a nice phrase, "the safety of women and children could not be guaranteed". Was that the first time you heard that phrase?

**Mr Murphy:** As I said, I cannot recall. We are talking about some months ago - a discussion.

**The CHAIRMAN:** It is an interesting phrase though, is it not? We have asked a number of witnesses and they said they cannot guarantee the safety of women and children anywhere.

**Mr Murphy:** It is an interesting phrase, because I think it is probably accurate. It was accurate.

**The CHAIRMAN:** Did you coin it?

**Mr Murphy:** Not that I recall, no.

**The CHAIRMAN:** It does not sound like the sort of phrase you used to put together to simplify what the issue might be there?

**Mr Murphy:** I would not say so, no.

**The CHAIRMAN:** Can you say positively it was not your invention?

**Mr Murphy:** I could not say that more positively. It is not necessarily a very original phrase, is it? It is not something that -

**The CHAIRMAN:** It has got a lot of bashing in this particular case. It seems to be suddenly used by everybody.

**Mr Murphy:** If I had the patent on it, I would be very grateful, but it is not necessarily an original line. It does not have perhaps the colour and relish there might be with something I might -

**The CHAIRMAN:** The reason I raise it, Mr Murphy, is this: it was given a lot of usage by way of explanation in relation to why this particular piece of legislation had been introduced. However, when we deal with the particular witnesses, they make it quite clear that, first, it is not be a phrase that they themselves would use and, secondly, they cannot guarantee the safety of women and children anywhere. It does sound to me that it has a ring to it that does not necessarily mean very much, that is all. I am just wondering when you first heard it yourself.

**Mr Murphy:** I could not be specific about when I first heard it.

**The CHAIRMAN:** Can you be specific that you did not invent it?

**Mr Murphy:** I could not give you a definitive answer on that. It is not a phrase that I would have thought you would attach the term "invent" to.

**The CHAIRMAN:** I see.

**Mr Murphy:** Perhaps it was used consistently because it reflected a measure of concern within the Government for the safety of the women and children in that community and, most of all, perhaps it was used because it was accurate.

**The CHAIRMAN:** Well, unfortunately, the evidence of the directors general is that it was not a phrase they would have used. We are not quite sure where the phrase came from but we have for instance Frazier, who is the director general of DCD, saying it was not a phrase that she would have used -

**Mr Murphy:** Brazier, you mean.

**The CHAIRMAN:** Frazier, yes. Jane Frazier.

**Mr Murphy:** Brazier.

**The CHAIRMAN:** Frazier.

**Mr Murphy:** Is it Frazier?

**The CHAIRMAN:** Sorry - Brazier. I thought we were talking about the "i" and not the "b". We have heard Mr Daube just recently. We have had Ms Brazier say they cannot guarantee the safety of women and children anywhere. That is why I am curious to know where people started saying that, because it does not appear to be a phrase that has come from senior-level government officers. I was wondering whether you might have something to do with it. Can you understand the reason for my inquiry?

[9.20 pm]

**Mr Murphy:** I can.

**The CHAIRMAN:** Right. Did he tell you that he had asked for a series of urgent meetings to come up with some action?

**Mr Murphy:** Yes.

**The CHAIRMAN:** Was that his suggestion or yours?

**Mr Murphy:** No, I think it was the Premier's suggestion, not mine.

**The CHAIRMAN:** Did you attend any of those meetings?

**Mr Murphy:** Yes.

**The CHAIRMAN:** Do you know how many of those meetings?

**Mr Murphy:** I cannot be specific. I am not sure whether I attended the first on that day, but if people say I was there, I will gladly concede that I was.

**The CHAIRMAN:** Can I ask you to see if you can possibly find out? I realise that you may have to give us some qualifications on that. Perhaps talking to Ms Warbey would be a good start. Perhaps you could first satisfy yourself that her recollection is correct. If you could write us a note to say which ones you certainly went to and which ones you think you might have gone to, that would be very helpful. Who chaired the meetings that you attended?

**Mr Murphy:** Mr Walsh.

**The CHAIRMAN:** Did you take notes at any of those meetings?

**Mr Murphy:** No.

**The CHAIRMAN:** Do you normally not take notes at meetings?

**Mr Murphy:** Not a meeting of that sort where I am not required to take notes, no.

**The CHAIRMAN:** Did you attend a meeting with local service providers on 6 May?

**Mr Murphy:** 1 May was a Thursday -

**The CHAIRMAN:** 6 May was Tuesday.

**Mr Murphy:** I cannot be sure, but if you could perhaps tell me the people who were there, I could perhaps answer that.

**The CHAIRMAN:** I do not think that we even have minutes of it. Perhaps you could check your diary, notes or anything else to give an indication. Let us put it this way: rather than people at a high level, such as those at the director general meetings, did you ever speak to anybody who was able to give direct information?

**Mr Murphy:** In some of the meetings I attended there were a great deal of people there - there might have been 10 to a dozen people. Other than the directors general, whom I recognised, I assumed that the others were middle to lower-level bureaucrats who probably had a direct personal involvement with the actual family. I sighted Jim Clarysse, for example, at perhaps the first or one of the first meetings that I attended. He was there. I did not speak directly to him, but he, I subsequently knew, was what I guess you would call one of the service providers involved.

**The CHAIRMAN:** Do you recall anything of what he said at that meeting?

**Mr Murphy:** No, I do not because he did not say much at all, quite frankly.

**The CHAIRMAN:** As well as the DGs I think there were ministerial officers there, were there not?

**Mr Murphy:** There was Mr Walsh, myself; at one or two there was the then Minister for Indigenous Affairs' chief of staff, Peter Terlick, and I cannot recall any other ministerial staffers although if you throw a name at me -

**The CHAIRMAN:** We have not had any names given to us. We were just told that ministerial officers were represented, but you do not recall them?

**Mr Murphy:** As far as I know it was Sean Walsh, myself and Peter Terlick.

**The CHAIRMAN:** What was your role in the meetings?

**Mr Murphy:** It was essentially to listen - basically to observe. It was to listen. I did not go there with a specific or designated role or riding instructions. I accompanied the chief of staff.

**The CHAIRMAN:** Did you participate?



**Mr Murphy:** I asked questions, yes.

**The CHAIRMAN:** Did you make suggestions?

**Mr Murphy:** I cannot specifically recall if I made suggestions, but I think I certainly asked questions of people there. One of the advantages of having people in these sorts of meetings who have a media background - former journalist as I am - and who is trained to ask questions, is that you tend to prod people along; you tend to get people to explore the angles; you tend to get people to take a more considered and rounded view.

**The CHAIRMAN:** Did you prod them in this case?

**Mr Murphy:** I asked questions. I can certainly recall that I did not sit silently. I would have asked questions if people made suggestions, yes.

**The CHAIRMAN:** I will just read to you what Mr Walsh said was your role, and you could perhaps agree or disagree with it. I asked -

Was Kieran Murphy present at any of those meetings?

Mr Walsh said -

I think possibly the second and third or second and fourth . . .

He participated in the discussion . . .

He raised ideas and when we were discussing what the options might be, and when talking about the prospect of things moving along in a way that would minimise the delay and maximise the security, he -

I then interrupted him and asked -

Was he not there to deal with media matters?

The reply was -

In part, but if there was to be media ultimately arising from this, he needed to be there to know what was being said, so that if it was necessary to deal with the media, he would be well briefed on the issue.

I asked -

I cannot understand why it would be useful for him to make suggestions, because his expertise is in media, is it not, rather than in matters of policy?

The reply was -

Mr Murphy is an intelligent man. He raised questions during the course of these events that helped clarify the issue we were dealing with.

I asked -

Did they have a media slant to them?

The reply was -

No. At that stage we were not focusing on the media; we were focusing on the issue of how we could move forward. I want to make it clear that, obviously, ultimately there would be media and it was important for Kieran to be properly briefed on what had occurred.

Do you recall, during the course of that, a decision being made to introduce a Bill into Parliament?

**Mr Murphy:** I do not know whether there was a decision made in the course of those particular meetings, but I can recall the Act being raised, yes.

**The CHAIRMAN:** Could you give us a bit of detail on that?

**Mr Murphy:** From memory, it was raised by a chap whom I did not know at the time; in fact, I still could not tell you his name, but I understand that he was from the Department for Planning and Infrastructure. He was a large bloke with a beard and dark hair.

**The CHAIRMAN:** What was the reason he gave?

**Mr Murphy:** What was the reason he gave for what?

**The CHAIRMAN:** For introducing a Bill rather than using any other powers there might have been.

**Mr Murphy:** It would have significantly reduced the likelihood of litigation and the whole thing becoming bogged down in the courts. Robert Bropho had demonstrated a propensity to litigate and to frustrate actions in the courts, and this was not a matter that the Government wanted to see delayed any more than necessary.

**The CHAIRMAN:** Did people explain why?

**Mr Murphy:** Because the safety of women and children was at risk.

**The CHAIRMAN:** Did you understand that the safety of women and children might have been at risk in other places in Western Australia?

**Mr Murphy:** I think other places were probably not matters that concerned me in my role here.

**The CHAIRMAN:** Nobody seemed to be concerned that there might in fact be other communities that posed a higher risk?

**Mr Murphy:** Some people may have made comments to that extent but I think the difference here, as it was presented to me at least, as I understood it, was one of access. There was certainly risk in other communities, as there would be risk anywhere else, but what made the Swan Valley Nyungah Community an exception, I suppose, was the problem that government agencies were reporting that they had in accessing that community to deal with concerns that they had, but also in providing services to the inhabitants of that community.

**The CHAIRMAN:** What is the source of that information?

**Mr Murphy:** My understanding is that that is the information that was given to the Premier that was confirmed. That was initially the information that was relayed to me by Lynsey Warbey, being Colleen Egan's concerns, and that was the information that was relayed to the Premier. He subsequently confirmed afterwards that that was at least the view of the directors general.

**The CHAIRMAN:** Can I just put something to you from a person who has been looking at the evidence? There does not appear to be a great deal in the documents leading up to the strategic meeting which singles out the Swan Valley Nyungah Community especially.

[9.30 pm]

In fact, it is a passing reference in most of the minutes. What does appear to have given it the urgency was a statement by the Premier at the strategic council meeting that he wanted it dealt with urgently. That seems to have got everybody quite panic stricken about it. It would appear that the Premier raised it then because of the media interest. That is just purely an outsider's point of view of looking at the documents and the evidence.

**Mr Murphy:** If I may, the Premier raised it because he was deeply and genuinely concerned with the welfare and safety of the women and children. It just so happened that Colleen Egan's queries had alerted him to a problem in that community.

**The CHAIRMAN:** I see, but it was a problem that was not being alerted by the officers of the department or by the directors general or by anybody else. It seemed to be strange that it required a member of the media to alert him to it.

**Mr Murphy:** Not to my knowledge.

**The CHAIRMAN:** Do you know whether in any of the meetings you were present at there was any attempt to confirm at first-hand whether the complaints and allegations that were being made were, in fact, correct?

**Mr Murphy:** Look, there were general discussions about it. I do not know what you mean by first-hand. Do you mean did we get anyone into these meetings who had first-hand knowledge?

**The CHAIRMAN:** Would you know whether anybody went back to check at first-hand that these reports were correct? There seems to be a lot of reports but not too many -

**Mr Murphy:** I think that at the first meeting there were discussions along those lines. I can remember Jane Brazier commenting about what her agency had managed to establish. I think I can recall Lynsey Warbey talking about it too. I think Mick Gooda from ATSIC had responded that he was aware of these and had serious concerns about the safety of women and children. I spoke to Colleen Egan as well myself.

**The CHAIRMAN:** You did?

**Mr Murphy:** Yes.

**The CHAIRMAN:** We were given three instances in our briefing. One related to a person who had suffered a broken leg or legs, one to a 13-year-old girl who was removed from the community and one to a person who had long since left the community but who supposedly had been threatened. Had you heard of those three allegations?

**Mr Murphy:** I had, yes. Those specific three cases were relayed to me by the journalist Colleen Egan.

**The CHAIRMAN:** Were they the ones that were seen as being an indication that the problems were continuing?

**Mr Murphy:** Yes, they were.

**The CHAIRMAN:** Was any attempt made to check whether those three allegations were correct?

**Mr Murphy:** Yes, in one of the meetings Mick Gooda, who knew Colleen Egan himself, told me if I was to speak to Colleen, ATSIC would certainly offer, I think, legal advice to the young girl involved in one of the allegations, or her guardians or parents, if she was to come forward and seek support.

**The CHAIRMAN:** Of those three allegations, we have had some evidence which seemed to indicate that the 13-year-old girl was removed at the request of the people at the camp. She was not, in fact, a regular resident there, but she was removed at the request of the people at the camp. The person with the broken legs broke them somewhere totally different in a work accident and, of course, the third one did not apparently appear at the camp anyway. Did you get information of that nature to indicate to you that perhaps it was not quite as good an indication of what was happening at the camp?

**Mr Murphy:** No, I did not.

**The CHAIRMAN:** Does it surprise you now that you have heard that?

**Mr Murphy:** I am neither surprised at all.

**The CHAIRMAN:** Does it disturb you?

**Mr Murphy:** You may have been told that. I do not see evidence that what I had heard was contradicted.

**The CHAIRMAN:** If you were now to find out that at least two of those were wrong and the other one does not even purport to be at the camp, would that concern you?

**Mr Murphy:** If that was to be true and proven to be the case to me. In what way?

**The CHAIRMAN:** You would not worry that you might have been operating on new events which were, in fact, incorrectly retold?

**Mr Murphy:** Would it have changed what the Government did? Is that what you are suggesting?

**The CHAIRMAN:** Yes.

**Mr Murphy:** No, because the issue was the access to that community.

**The CHAIRMAN:** How often did you meet with the Premier on the matter?

**Mr Murphy:** I cannot specifically answer that, Mr Chairman, because we did not set meetings -

**The CHAIRMAN:** Perhaps you can give us a sort of general frequency; was it a matter of regular discussion or infrequent discussion?

**Mr Murphy:** It would have been probably a matter of infrequent discussion. There was a lot going on at the time.

**The CHAIRMAN:** You mentioned in response to my question about why the Government did not enter an MOU for the Lord Street community that it was a soft response. Has that term, or something like it, been used subsequently? Have you discussed such questions as to whether you should have a soft, non-soft or tough response?

**Mr Murphy:** No; soft response was my term.

**The CHAIRMAN:** But you said it in a way to indicate something to me. What were you trying to convey by that?

**Mr Murphy:** Let us face it: I think the general view was that the Swan Valley Nyungah Community was run by one particular individual and that there was not really much point in having an agreement with that particular individual, who had not demonstrated any willingness to allow government agencies, as it was described to me, unfettered access or the ability to go about their business in the past.

**The CHAIRMAN:** You almost use the words "soft response" in a pejorative sense.

**Mr Murphy:** It must be put in the context, Mr Chairman, of the coronial inquiry into the death of Susan Taylor.

**The CHAIRMAN:** Can we just go back first to whether you were intending that I should take the words "soft response" as being pejorative? I got that impression. I might have wrongly got that impression. Was it seen that you were using "soft" in a pejorative sense?

**Mr Murphy:** No.

**The CHAIRMAN:** Would you then explain to me why that was a reason for not doing it; why was it a problem if it was a soft response; and what sort of response were you looking for?

**Mr Murphy:** It was not seen as a response that would have been effective.

**The CHAIRMAN:** Because people had come to the conclusion that it was a community that required something that was not soft?

**Mr Murphy:** No. You must understand that I did not take part in the cabinet discussions.

**The CHAIRMAN:** No.

**Mr Murphy:** I did not take part in the discussions about the response to the Gordon inquiry. My impression was simply what I had gained because my reading of that particular recommendation was that it was the one recommendation in the Gordon report that I could perhaps characterise as disappointing.

**The CHAIRMAN:** The reason I am asking you is that the term soft was not one I used; you chose to apply that adjective yourself. I am trying to understand a little as to your thinking, if I possibly can.

**Mr Murphy:** Is my thinking relevant to this?

**The CHAIRMAN:** Yes, it is, because what I am hoping is that your thinking was related to what you understood was the reason for the Government's response. You told the committee that the reason the Government rejected that one was because it was a soft response. I assume that is not just your opinion; it is your opinion from what you understood of the Government's reason for doing it.

**Mr Murphy:** That was my understanding of the recommendation. As I said, I did not take part in the Government decision-making processes that reached the conclusion that that was not a recommendation that was supported.

**The CHAIRMAN:** No, but you took part in the media response to the Government's process. Are you saying that you made no inquiry of anybody as to why the Government had rejected that particular one?

[9.40 pm]

**Mr Murphy:** I cannot recall making any inquiry to people as to why that particular recommendation was made.

**The CHAIRMAN:** It seems a bit strange to me. I would have thought a media person should say, "Well, I've got to justify this to the public as to why one of the things was rejected." Did you ask them, "Well, why did you reject it?"

**Mr Murphy:** It was not a matter that I, quite frankly, would have given more than passing notice to. If I had asked people, I cannot recall doing so.

**The CHAIRMAN:** Was there ever a sentiment expressed to you in the course of your discussions with the Premier or the discussions involving the directors general or ministerial staff that the Government was dealing with a community that required a strong response?

**Mr Murphy:** Not that I can recall, no.

**The CHAIRMAN:** When the decision was made to introduce a Bill into Parliament, were you present when that was discussed?

**Mr Murphy:** I was certainly present when the option of a Bill was raised in that meeting. Yes, I can definitely say I was present when the option was raised, but when the specific decision was made I cannot be sure. I knew as soon as that was raised in subsequent discussions with the Premier, whether it was straightaway or later, that that was the option that he wanted to go with.

**The CHAIRMAN:** Were you at any stage aware that that was probably an unusual way to proceed?

**Mr Murphy:** Very much so.

**The CHAIRMAN:** How were you aware of that?

**Mr Murphy:** By the general discussions within the meeting that I had attended. When it was first raised it was actually characterised, yes, as highly unusual.

**The CHAIRMAN:** Did anyone discuss the fact that it might have some impact on the people in the community?

**Mr Murphy:** Yes.

**The CHAIRMAN:** What was said?

**Mr Murphy:** I think it was said that it was the best means to attend to their welfare and safety.

**The CHAIRMAN:** Did anybody discuss the fact that they might feel dispossessed?

**Mr Murphy:** Not that I can recall.

**The CHAIRMAN:** So it did not occur to anybody that there might be some resentment in the community to being thrown out of their place of residence?

**Mr Murphy:** I did not see it as throwing them out of their place of residence.

**The CHAIRMAN:** They obviously were not going to go voluntarily, were they? It would not need an Act of Parliament otherwise.

**Mr Murphy:** No, quite the contrary. I can recall people saying that, in fact, most of the people probably would have gone after a period of time, once an administrator was appointed and the community was wound down. I mean, this was seen, if you like, as a staged process. The idea was not to throw anyone out. The idea was, according to the plan that was developed that I had seen, to remove Mr Bropho and some others who were seen as troublemakers; for those to be asked to leave by the administrator. If they did not comply, they were to be forcibly removed and the rest of the community would remain there until, essentially, they were connected with alternative accommodation, which had already been set aside. But the idea was to essentially allow the government agencies to move in then with the women and children and, you know, apprise them of the services that were available to them. Essentially, it was to try to establish the level of relationship of trust that perhaps may have existed in other similar communities but did not at this community.

**The CHAIRMAN:** Did you understand, then, that they could stay as long as they liked if they wanted to?

**Mr Murphy:** Not as long as they liked. The idea was that the community was to be closed down, but, you know, the women and children certainly were not going to be forcibly removed from that community. The idea was that Mr Bropho and some other males who were identified as troublemakers would be removed from the community.

**The CHAIRMAN:** I can understand that. Let us go back. I asked whether you thought they could stay as long as they liked and you said no. How was it to be brought to an end?

**Mr Murphy:** Over a period of time it would have been brought to an end. There were no specific deadlines set as I recall, and there was no specific trigger or incident that was to act as the final -

**The CHAIRMAN:** Right, but you did not understand they could stay there as long as they wanted.

**Mr Murphy:** No. They would not have been -

**The CHAIRMAN:** So ultimately they may be told, "It is time for you to go"?

**Mr Murphy:** That is right.

**The CHAIRMAN:** Right.

**Mr Murphy:** I think we were confident though that, once Mr Bropho and the troublemakers were removed and the grip of fear and intimidation that he held over the community was broken, certainly the future would have been a helluva lot brighter and a helluva lot more positive for the residents of that community.

**The CHAIRMAN:** Did it occur to anybody that once that particular regime was applying there and they were living there without fear, they might actually want to stay?

**Mr Murphy:** That may well have been discussed, yes.

**The CHAIRMAN:** But it was not allowed as an option?

**Mr Murphy:** No.

**The CHAIRMAN:** It seems strange to me that if you are doing this for the benefit of women and children, did nobody say, "Well, what if they do not want to go?"

**Mr Murphy:** No.

**The CHAIRMAN:** Would you like to be moved out of your house for your good?

**Mr Murphy:** Certainly not.

**The CHAIRMAN:** Even if you were quite happy to be there?

**Mr Murphy:** Certainly not.

**The CHAIRMAN:** Did nobody ask, "What if the women and children do not want to go?"

**Mr Murphy:** I cannot specifically recall anyone saying that, but my recollection was that virtually everyone - I mean, I cannot recall a dissenting voice in the meetings I attended.

**The CHAIRMAN:** The women and children were not there. They might have given a dissenting voice if they had been.

**Mr Murphy:** Obviously, the discussion included the welfare of the women and children - what would need to be done to provide for them. Their welfare and wellbeing was foremost in the minds of the people there, but I do not remember anyone specifically saying that people's rights to live in a particular place should override their right to be free of abuse - sexual, physical and other.

**The CHAIRMAN:** But you cannot hear any contradiction in what you are saying there? You have just told me that the idea was to remove the people who were oppressive so they no longer oppressed them, and then to remove the people who were oppressed. Does that not sound a bit strange to you now that you think about it?

**Mr Murphy:** No, it does not. I think it was a situation that warranted extraordinary action by government.

**The CHAIRMAN:** Sure. Whilst I can accept that, as far as removing people who are seen as oppressors - let us accept that for the time being - did nobody even raise as a possible question that once you had removed the oppressors and were giving people a life free of all the things that you said, they might want to live in their homes? Did nobody even raise that?

**Mr Murphy:** I think, in fact, that the point might have been raised that if you removed Mr Bropho and the troublemakers, if I can describe them as that, and left other members of the community on site, there would be nothing to stop them, Mr Bropho and the troublemakers, returning again. It would be an unmanageable situation.

**The CHAIRMAN:** Would that not be the same problem even if they moved to another house? What is to stop Mr Bropho from going to the house that they are in when they leave the place?

**Mr Murphy:** The decision was, Mr Chairman, that that community was not something that could be sustained any longer; that it was a totally unacceptable situation for it to continue.

**The CHAIRMAN:** Right. Okay. I suppose I do not want to ask you the same question again. I want to repeat the suggestion that nobody actually talked about - put it this way - did anyone give any consideration to how the women and children would be protected from these people outside the community?

**Mr Murphy:** Yes. I think part of the plan involved providing them with Homeswest properties where they wanted that were discrete, safe houses. That had been done in one of the cases - I understand one of the three incidents that you had quoted earlier. I understand a young woman had to be provided a safe house.

**The CHAIRMAN:** Yes, okay. I do not think that is a very accurate statement as to what happened, but that is your understanding.

**Mr Murphy:** Yes. It may have been another young woman, but that was certainly my understanding.

**The CHAIRMAN:** Can you understand this? You take Mr Bropho's family out of there. Did anyone discuss how you were going to stop Mr Bropho from being with his family?

**Mr Murphy:** No, because at the end of the day they are choices that people would have to make.

[9.50 pm]

**The CHAIRMAN:** Very true.

**Mr Murphy:** But the Government could only do as much as the Government could do, and it was worth doing.

**The CHAIRMAN:** Nobody discussed the fact that if they remained inside the community and an administrator had the power at any time to remove a troublemaker they might be better able to be protected inside than outside?

**Mr Murphy:** The administrator was not going to remain in that position or on the property indefinitely.

**The CHAIRMAN:** He could have though, could he not?

**Mr Murphy:** That is not a decision for me.

**The CHAIRMAN:** Were you aware that Mr Bropho was about to be re-arrested on sexual interference charges?

**Mr Murphy:** I am not sure. At what stage?

**The CHAIRMAN:** When did you become aware that he was to be arrested on sexual interference charges?

**Mr Murphy:** I know I certainly became aware when I read it in the newspaper. I may have heard about that speculation from a journalist, but I cannot be sure.

**The CHAIRMAN:** Can you put a date on it?

**Mr Murphy:** I can tell you when I certainly knew about it.

**The CHAIRMAN:** That is a start.

**Mr Murphy:** Okay. That would have been the day the Premier introduced his legislation or at least gave a brief ministerial statement to the Parliament announcing the Government's intention to close the community, because there was a story that appeared in the media that day which speculated that the DPP was reconsidering laying charges against Mr Bropho. I had heard that speculation, I am sure, earlier, but that was a particular story that I think was doing the rounds for some time.

**The CHAIRMAN:** He made the statement on 14 May.

**Mr Murphy:** Yes; it would have been around about that time, yes.

**The CHAIRMAN:** Did that in any way have any impact on you as far as the media was concerned?

**Mr Murphy:** I do not understand the question.

**The CHAIRMAN:** Did you have to fend any media questions about it?

**Mr Murphy:** No. It is not something that journalists would ask me about. You understand the separation of powers.

**The CHAIRMAN:** Did you think it might have any impact on them saying what have you done about Lord Street?



**Mr Murphy:** No.

**The CHAIRMAN:** At any stage in the discussions was there any discussion about the Racial Discrimination Act?

**Mr Murphy:** I cannot specifically recall. There was a discussion of the legislation. There was talk that Crown Law was to obviously provide advice. Look, if it was raised - I would not be surprised if it was raised. It was not raised by me.

**The CHAIRMAN:** You do not recall anyone saying, "Will this legislation offend the Racial Discrimination Act of the Commonwealth?"

**Mr Murphy:** They may have but I cannot specifically recollect that.

**The CHAIRMAN:** Do you recall that the Legislative Council made some amendments to the legislation?

**Mr Murphy:** I can.

**The CHAIRMAN:** Were you involved in any discussions subsequent to that?

**Mr Murphy:** Only at a broad level.

**The CHAIRMAN:** What do you mean broad level?

**Mr Murphy:** I certainly remarked how I thought it was absolutely ridiculous, pointless, fruitless.

**The CHAIRMAN:** Can you tell us the reason for this very significant legal opinion?

**Mr Murphy:** I could not work out actually why members of Parliament would seek to defend in my view what was the indefensible.

**The CHAIRMAN:** Do you know what the amendments did?

**Mr Murphy:** You could perhaps refresh my memory.

**The CHAIRMAN:** I thought you could remember them yourself, with such a definite opinion.

**Mr Murphy:** It is not a matter that occupies -

**The CHAIRMAN:** One of the amendments was to allow them to remove the malefactors but to allow the women and children to remain. Did you think that was indefensible?

**Mr Murphy:** I thought that the general position taken by some members of the Legislative Council was indefensible.

**The CHAIRMAN:** I am asking a question about the amendments. The amendments allowed the women and children to remain. Did you think that was indefensible?

**Mr Murphy:** I was aware that the Government was advised that the amendments were unworkable. To me that was good enough. I am not a lawyer, nor a legislator. What I saw was in fact members of the Legislative Council holding up legislation that was designed to protect women and children. I saw members of the Legislative Council in fact putting the safety of women and children at risk.

**The CHAIRMAN:** That is one person's perception, I suppose.

**Mr Murphy:** I think that was probably a pretty commonly held perception.

**The CHAIRMAN:** You may have had something to do with creating it, Mr Murphy, but the reality of the matter was that the members of the Legislative Council considered it was important to protect women and children.

**Mr Murphy:** Some members.

**The CHAIRMAN:** I can only speak for myself. I thought it was important to protect the women and children, and I thought that the legislation actually was depriving the women and children of

the right to live in their homes. I thought that was a matter of concern. Was that a matter of concern to you?

**Mr Murphy:** I found it absolutely bizarre and, in fact, reprehensible that someone would stand up publicly and say that they believed that the property rights of an individual or people were more important than the rights of people to live free of molestation, sexual abuse and physical abuse.

**The CHAIRMAN:** I am not aware that anybody said that, Mr Murphy. Perhaps I missed that particular speech. Obviously you formed a view fairly quickly about the events in the Legislative Council. Did you also see them as a media advantage?

**Mr Murphy:** No. I read some of the *Hansard*.

**The CHAIRMAN:** You did not see that there was any media advantage to the Government as a result of this?

**Mr Murphy:** I did not see it as a media advantage, but, boy, I certainly saw it as a media disadvantage for you.

**The CHAIRMAN:** Did you see it as a media opportunity for you?

**Mr Murphy:** Certainly not. This was serious business. I could not believe that you were doing what you were doing.

**The CHAIRMAN:** Were you seen going down the corridor making sort of victory signs after the changes had been made? Was that about this particular thing?

**Mr Murphy:** I would -

**The CHAIRMAN:** Sort of throwing your hands in the air as if you had just won something?

**Mr Murphy:** Did you witness that?

**The CHAIRMAN:** I know somebody who did. Did you do it?

**Mr Murphy:** That is hearsay. I cannot recall.

**The CHAIRMAN:** Might you have done it?

**Mr Murphy:** It does not sound like it was consistent with my character, no.

**The CHAIRMAN:** I asked this question. Did you see it as a media opportunity?

**Mr Murphy:** And I answered that.

**The CHAIRMAN:** What was your answer again?

**Mr Murphy:** No, I did not.

**The CHAIRMAN:** So you did not take any chance to use this for the purposes of government advantage?

**Mr Murphy:** No. The intention of the Government at the time was to get the legislation through. The intention of the Government was to do all it could to protect the welfare and safety of the women and children.

**The CHAIRMAN:** Did you speak to any media people as a result of the amendments that took place?

**Mr Murphy:** I cannot recall specifically speaking to people, but in the course of my job I speak to a lot of people.

**The CHAIRMAN:** Do you think you raised the question with them to suggest some avenues of reporting that they might follow?

**Mr Murphy:** That is entirely possible.

**The CHAIRMAN:** Can you think back to what you actually did do?

**Mr Murphy:** No, I cannot.

**The CHAIRMAN:** You cannot remember?

**Mr Murphy:** Look, my job is, as a media adviser, to talk to journalists. At the time I was doing it on a daily basis, multiple times during the day.

**The CHAIRMAN:** It was a fairly minor event as far as you were concerned. It did not stand out significantly.

**Mr Murphy:** No. I think it was a significant event, but my discussions with journalists at the time, with individual journalists, do not stand out in my mind, sorry.

**The CHAIRMAN:** You did not see it as an opportunity to suggest there was some sort of rift between the upper and lower House in the Liberal Party, did you?

**Mr Murphy:** I am sure I probably would have seen it that way.

**The CHAIRMAN:** Do you think you would have said something to the media about that?

**Mr Murphy:** I may well have, yes. It certainly would not surprise me. Perhaps you could say was it a significant rift between the upper and lower House.

**The CHAIRMAN:** No, it was not. Mr Murphy, I am asking the questions here. I am asking you to answer them too.

**Mr Murphy:** And I am.

**The CHAIRMAN:** I asked did you suggest that to the media and the answer was yes. Did you see that as an opportunity for the Government?

**Mr Murphy:** No, I did not.

**The CHAIRMAN:** So you took a perfectly dispassionate view over this, did you?

**Mr Murphy:** Dispassionate?

**The CHAIRMAN:** You did not get excited about it; you did not regard it as an important matter to emphasise to the media?

**Mr Murphy:** Excited would have been the wrong word. Disgusted, yes. Excited, no. Appalled, yes. Excited, no. Shocked, yes definitely. Excited, no.

**The CHAIRMAN:** You are very good on adjectives, Mr Murphy. It makes me wonder whether you were the origin of the person who said that the safety of women and children could not be guaranteed. It sounds a bit like a person skilled in the use of words.

**Mr Murphy:** Is that a question or a statement?

**The CHAIRMAN:** It is a statement, Mr Murphy.

**Mr Murphy:** Very well.

[10.00 pm]

**The CHAIRMAN:** You are very good with words and have demonstrated that to us. I put it to you, Mr Murphy, that one of the principal motivations for the Government rejecting amendments was that you saw it as an opportunity to make political capital out of it, and you were one of the advisers for that.

**Mr Murphy:** Is that a question or a statement?

**The CHAIRMAN:** It is a question Mr Murphy.

**Mr Murphy:** That is wrong.

**The CHAIRMAN:** Okay.

**Mr Murphy:** The objective, Mr Chairman, was to get the legislation through the Parliament as quickly as possible. That was the Premier's stated intention when he brought in the Bill. That was acknowledged by your leader in the lower House who was subsequently embarrassed by the actions of some of his colleagues in the upper House. If I had discussions with journalists along the way, if I had cause to reflect upon the amendments or the conduct of members of the Legislative Council of the Liberal Party along the way, it was in the context of the Government's desire to get that legislation through as quickly as possible, which was motivated by the Premier's desire to do all that was possible to protect the welfare of the women and children.

**The CHAIRMAN:** Mr Murphy, were you aware the Opposition was told that one the reasons the amendments were not acceptable was because it did not allow them to close the camp?

**Mr Murphy:** I may have been aware at the time, but it does not jog the memory -

**The CHAIRMAN:** That is slightly different from saying the safety of women and children, is it not?

**Mr Murphy:** Look, as I said before, what I am certainly aware of was the advice to government that the Opposition's amendments were unworkable. That was good enough for me.

**The CHAIRMAN:** Okay. Mr Murphy, you have not given a very good explanation, as far as I can see, as to why it was to the benefit of women and children to throw them out of the camp. Why I am asking you that and why it is important to me is this: the difference is that amendments that were made in the upper House were to allow for the safety of women and children by permitting the removal of the supposed oppressors from the camp but also to permit the women and children to stay. It was that which the Opposition was told was not acceptable to Government. Can you see why the question I have put to you is why is it that it was unacceptable to government that the women and children remain? You have told me that it was expected that they should. Why was it that they were not allowed to remain?

**Mr Murphy:** Mr Chairman, that is an awfully long question and I hate to be difficult but could you repeat that please?

**The CHAIRMAN:** Why were the women and children not allowed to remain?

**Mr Murphy:** Well, I think that is probably a matter of policy.

**The CHAIRMAN:** Yes, were you present when it was discussed?

**Mr Murphy:** Yes, I was.

**The CHAIRMAN:** What was the reason?

**Mr Murphy:** My understanding was because it would have been an unworkable situation. It would have been impossible to keep Mr Bropho and other male members of that community who were deemed troublemakers or a threat -

**The CHAIRMAN:** And you believe that, do you? You are putting that to me as a serious reason that was given?

**Mr Murphy:** Yes, yes.

**The CHAIRMAN:** Whether it is possible to keep Mr Bropho outside the camp, or was that not discussed?

**Mr Murphy:** I did not say that it was possible to keep him outside the camp.

**The CHAIRMAN:** Well, what is the difference between them being in the camp and out of the camp?

**Mr Murphy:** What I said is that Governments can do what Governments can do -

**The CHAIRMAN:** You said you could not do anything outside the camp -

**Mr Murphy:** How people choose to live outside the camp is a different matter, but the Government had the ability to do this - to do what it could do to protect the women and children by shutting down that camp. The Government cannot shut down a private residence. The Government perhaps did not have the power to do other things but it could do that.

**The CHAIRMAN:** You see, Mr Murphy, the problem I am having in understanding is what was the result going to be other than you would shift the problem out of the Lord Street community? What were you going to do to address the problem?

**Mr Murphy:** The discussion was that by shutting down the community it would break the power structure that, if you like, existed and ensured that while those people lived there they were oppressed. That was the idea. Breaking up the power structure that existed and that had been created by, I think, the actions of the previous Government, and ignored by the previous Government.

**The CHAIRMAN:** I see. So you regard that putting the people and giving them, what? Do you think Cullacabardee is also similar?

**Mr Murphy:** That is not a matter for me to answer. It is a matter of policy.

**The CHAIRMAN:** Were you aware that there were other camps where people were living together.

**Mr Murphy:** I am.

**The CHAIRMAN:** So, the Government's only reason for doing this was that if it broke Mr Bropho's power that would solve the problem. That was it was it?

**Mr Murphy:** No-one is saying it was going to deliver utopia. No-one was saying that this legislation was going to deliver utopia but it was the best thing the Government could do. It was better than doing nothing.

**The CHAIRMAN:** It will cease to be your responsibility. I suppose that is what you thought.

**Mr Murphy:** Certainly not. It has not ceased to be the Government's responsibility. The whole idea was that by removing Mr Bropho and a power structure that existed there, government agencies - the Department for Community Development, health and education etc. - would then be able to make contact with the women and children in that community and start creating and developing relationships that would hopefully provide them with a better life in the future than they had experienced in the past. But while Mr Bropho and the power structure existed within that community, that was deemed impossible.

**The CHAIRMAN:** Did it not occur to anybody that if any further incidents occurred after you had removed everybody from Lord Street, it would not be seen to be the same problem?

**Mr Murphy:** You might want to rephrase that question.

**The CHAIRMAN:** It had become notorious that particular area had it not? Lord Street had gained a lot of publicity.

**Mr Murphy:** I am sorry, I am hearing some whispering behind me so I could not hear you.

**The CHAIRMAN:** Lord Street had become reasonably publicised had it not?

**Mr Murphy:** Of course.

**The CHAIRMAN:** Had there been another incident at Lord Street it would not have been very good for the Government would it?

**Mr Murphy:** I would say it would be not have been very good for the people of Lord Street.

**The CHAIRMAN:** But I am asking you this question that, from your point of view, as the media adviser, it would have caused you a media problem.

**Mr Murphy:** I did not see it.

**The CHAIRMAN:** You did not see it. Okay, that is all right. So it was not a motivation to close the place down so that at least, if any further incidents occurred, they would not be seen as the Government having failed to do anything about Lord Street? That was not a motivation.

**Mr Murphy:** No, it was not.

**The CHAIRMAN:** Okay. Did you understand that there were places for these people to go to?

**Mr Murphy:** Yes, there was.

**The CHAIRMAN:** Was that all arranged at the time that the Bill was introduced?

**Mr Murphy:** I am not aware of the particular houses but I am aware that there was an action plan, if you like, that was developed that dealt with matters. Well, certainly Homeswest was instructed to ensure that properties were identified and made available and were on standby, things of that nature, yes.

**The CHAIRMAN:** Were you aware that discussions were taking place between the Opposition and the Government?

**Mr Murphy:** Was I aware of what - that discussions were taking place?

**The CHAIRMAN:** Yes.

**Mr Murphy:** I was aware that discussions were taking place but I was not present at any of those.

**The CHAIRMAN:** Right. Were you aware that Mr Murphy and Ms Eckert met with me?

**Mr Murphy:** It must have been another Mr Murphy.

**The CHAIRMAN:** Sorry, not Mr Murphy but Mr Walsh.

**Mr Murphy:** I am aware of meetings with opposition members. Who attended those I am not sure.

**The CHAIRMAN:** Were you aware that one of those meetings took place on 30 May, which is a Friday?

**Mr Murphy:** Not particularly, no. Should I be? Is there any significant -

**The CHAIRMAN:** I will take you on from that. At that meeting a discussion took place between Mr Walsh, Ms Eckert and me. They said they could not make a decision. They then went away and apparently a meeting took place over the weekend of 31 May and 1 June with the Premier. Were you present at that meeting?

[10.10 pm

**Mr Murphy:** I do not think I was.

**The CHAIRMAN:** So you were not present at a meeting at which what was discussed between Mr Walsh, Ms Eckert and me was discussed?

**Mr Murphy:** If the meeting was called specifically to discuss the meeting with yourself, then I do not think I was present. We used to have meetings on Sunday evenings, which were essentially planning meetings for the week ahead. They were dispensed with I thought much earlier in the year, in favour of early Monday morning meetings. If I had attended a meeting on a Sunday it could have been a meeting of that nature at which anything else may have been raised.

**The CHAIRMAN:** Ms Eckert may have been mistaken when she said she thought it was done over the weekend. You think it could just as easily have been done on a Monday morning, do you?

**Mr Murphy:** I cannot recall Mr Walsh specifically raising at any meeting with the Premier discussions he had had with you.

**The CHAIRMAN:** So you were not present at any meeting at which the discussions between Mr Walsh and me were discussed?

**Mr Murphy:** Not that I can specifically recollect, no.

**The CHAIRMAN:** I realise that you do not seem to have an awful lot of documentation. I have already asked you for your book, so can you get that to the committee clerk as soon as you possibly can? Would you also look through any other documentation that you might have that would help me and all the other members of the committee to determine what was the rationale behind this legislation, because no doubt documents would have come into your possession at some stage that might assist us, and also any discussion papers, memoranda and briefing notes that you might have?

**Hon LOUISE PRATT:** It would be my understanding that that documentation might contain a variety of other information that Mr Murphy would not like to provide to the committee.

**The CHAIRMAN:** I think what he should do is give the book to Mr Driscoll and identify those page that he is submitting to the committee and those that he is not. I will ask Mr Driscoll and Mr Pratt to vet that information for its appropriateness, and provided we are satisfied that it is appropriate we will take it on that basis.

**Hon LOUISE PRATT:** Such a book might also be something that Mr Murphy uses on an ongoing basis, and you might be denying him reasonable access to sources that he otherwise uses.

**The CHAIRMAN:** Certainly.

**Mr Murphy:** I will seek advice on that, I think.

**The CHAIRMAN:** What I would like you to do is submit it to the clerk and indicate those pages that you think are relevant, and also any other documents that you think might assist us in determining the thought behind the legislation.

**Mr Murphy:** I am sure you have probably got all the relevant documents.

**The CHAIRMAN:** We might very well have them, but you might have some documents that are particularly yours, so would you please have a look to see what notes you might have?

**Hon JON FORD:** Can you describe the specific aspects of your job?

**Mr Murphy:** My job as it was at the time?

**Hon JON FORD:** Yes.

**Mr Murphy:** I was principal media adviser to the Premier. Essentially I was the first point of contact for journalists seeking access to or comment from the Premier. I would probably have been his primary source of media advice in determining how to respond to those media queries. That was essentially it.

**Hon JON FORD:** What sorts of meetings did you attend at an agency level in the Department of the Premier and Cabinet?

**Mr Murphy:** I would not at an agency level attend a great deal of meetings unless a media issue was running or unless I anticipated that something would become a media issue. I would attend primarily to get an understanding of the issue itself in order to be fully briefed and in order to better manage whatever reporting or media attention that particular issue might attract. That was the extent of it. It was really a sort of horses for courses scenario.

**Hon JON FORD:** Did you decide which meetings you should attend or were you invited?

**Mr Murphy:** Sometimes I would decide. I would suggest to the chief of staff that I thought I should go along to a particular meeting. Sometimes the Premier would say I should come along to this one or that one, and sometimes Mr Walsh would suggest that.

**Hon JON FORD:** Are the comments that you have made with regard to the Government's intention comments that you formed personally?

**Mr Murphy:** Do you mean the Government's intention with regard to closing the camp?

**Hon JON FORD:** You used pretty strong words.

**Mr Murphy:** I was certainly aware of the strength of feeling that the Premier had about this issue. I had a particular interest in this as well, because I had in fact given the Premier a copy of the coroner's report into the death of Susan Taylor at some time when it was first published. It had been given to me by another person in government who has an interest in indigenous affairs and child protection matters and who said I should read it because it is strong stuff. I read it and was moved incredibly by it. I remember giving it to the Premier on a Friday evening and saying - he is a very busy man, as you would understand; it is not a very long report, by the way - that if he had a chance to read it over the weekend, he should, because it is appalling stuff. He read it and subsequently initiated the Gordon inquiry. I think anyone who read that report would have responded in the same way. I was not surprised at all when the Premier decided that enough was enough so far as the Swan Valley camp was concerned, because he had taken a direct interest in this matter.

**Hon JON FORD:** How much autonomy did you have in that role with regard to how you pursued media statements and advice to the media?

**Mr Murphy:** Do you mean other media advisers within government?

**Hon JON FORD:** Yes.

**Mr Murphy:** I think it is fair to say that the Premier trusted me in providing advice. We had worked together for a long time. I had been the Premier's media adviser ever since he became Leader of the Opposition and throughout his premiership. I would say that the vast majority of times I would always run a media statement past the Premier before it was released; that is, a media statement that I had written in his name. Usually the process would be that we would discuss the matter and I would get an understanding as to how he wanted to approach it, and I would draft the media statement and run it past him to check. In terms of advising other media advisers and staff, it would certainly depend on the issue. If it was a minor issue, I would perhaps make a judgment call and tell them how to handle something, particularly if I already knew what the view of the Government was about that particular issue. If it was a matter in which I was not aware of what the Government's policy or position was, it was certainly something I would check before perhaps advising another media adviser about how to respond to something.

[10.20 pm]

**Hon JON FORD:** As a requirement of your job, have you ever felt that you must speculate on what Cabinet's decision might be? For instance, in this case you were obviously aware of the direction the Premier wanted to go. In the nature of your job, do you ever speculate that if Cabinet makes a decision, that is probably the way you should go but if it makes another decision, you should go the other way?

**Mr Murphy:** I had been doing the job for a while. I had a pretty good understanding of which way the wind was blowing and which way Cabinet would go on an issue. However, on some issues a communications strategy is developed that is based on either decision. If you are referring specifically to this issue, I could have confidently predicted what the cabinet decision would be because the Premier had a very strong interest in this matter.

**Hon JON FORD:** You talked about the non-dissenting view of the directors in the meetings you attended. Was your view based on that, was it based on what you heard ministers or other chiefs of staff say, or was it a combination of both?



**Mr Murphy:** It was mainly formed because I knew the strength of the Premier's conviction in regard to doing something about the Swan Valley Nyungah Community and about protecting the women and children there. I knew that, regardless of other views, his view would prevail.

**Hon ROBIN CHAPPLE:** Thank you for coming this evening. I want to run a few things past you, if I may. I will go back to the very beginning and the allegations made by Colleen Egan. When did you become aware of the substance of those allegations?

**Mr Murphy:** It may have been when Lynsey Warbey first spoke to me, but I cannot specifically recall that. At some stage I was made aware that it involved the three specific allegations. As I said, I had spoken to Colleen not long after on either 1 or 2 May. Colleen briefed me on the allegations she was pursuing. I was aware of them in some detail at that time. She was raising not just the three specific allegations. I seem to recall the term used that nothing much had changed. She was being advised that nothing much had changed. I was also aware that there was a view that Colleen was alerting the Government on behalf of some people inside the community. Colleen was a very good journalist who had very good contacts and had reported extensively on the Swan Valley Nyungah Community and on the Susan Taylor inquest. Following my discussion with her, I was left in no doubt that if Colleen was not speaking to people from within the community, she was speaking to people who were connected to it

**The CHAIRMAN:** She did not tell you who they were though.

**Mr Murphy:** No, she would not do that as a journalist. I do not know whether I bothered to ask her because we have a pretty good understanding of how she operates.

**The CHAIRMAN:** The reason I asked that was to make sure that it was an impression you gained rather than a statement from the people she had been talking to.

**Mr Murphy:** It was an impression.

**Hon ROBIN CHAPPLE:** Moving on, when you spoke to the Premier on the way to the meeting on 1 May, did you identify any of the issues to the Premier?

**Mr Murphy:** It was a very brief conversation. I probably repeated the phrase that nothing had changed and that agencies were having problems getting access to the women and children there. I might have said that there had been incidents or allegations of incidents, but I do not know whether I would have even had the time to say much more.

**Hon ROBIN CHAPPLE:** Was that 1 May?

**Mr Murphy:** That was on 1 May as the Premier was literally gathering his papers and walking into the meeting.

**Hon ROBIN CHAPPLE:** Were you aware of the allegations at that time in detail?

**Mr Murphy:** I might have been. The following day was when I first spoke to Colleen. That is when I was definitely made aware of the detail. If Lynsey had mentioned any more detail to me than what I said, it would not surprise me; however, I cannot specifically recall -

**Hon ROBIN CHAPPLE:** Would you not have had discussions with Mr Walsh?

**Mr Murphy:** I would have mentioned to Sean Walsh that a journalist was asking questions about the Swan Valley Nyungah Community

**Hon ROBIN CHAPPLE:** Had you done that on 1 May rather than on 29 April?

**Mr Murphy:** To tell the truth, it may have been the day before on 29 April or it may have been 1 May. It was some days between being told by Lynsey Warbey and my advising the Premier. Essentially, I saw it as an opportunity. The Premier was going into the strategic management council. He had an opportunity of talking to the directors general, who would be able to advise him

whether the concerns of the journalist were relevant or whether they were to be believed. They would either back them up or discount them.

**Hon ROBIN CHAPPLE:** If I am correct, you have previously stated in your evidence this evening that you were aware of other departments being contacted by journalists, but that you were not aware of the specific issues.

**Mr Murphy:** I said that I may well have been advised by Lynsey that more than one department had been contacted, but I was aware of only one journalist who was making the contact. I have a recollection of indigenous affairs.

**Hon ROBIN CHAPPLE:** I will come to that in a minute.

**Mr Murphy:** Yes.

**Hon ROBIN CHAPPLE:** Moving on, did you communicate more directly with Colleen Egan at a later stage and have more detailed conversations with her?

**Mr Murphy:** I did, yes.

**Hon ROBIN CHAPPLE:** Do you have any idea when that occurred?

**Mr Murphy:** I am pretty sure that was the day after the strategic management council meeting

**Hon ROBIN CHAPPLE:** Would that have been 2 May?

**Mr Murphy:** I recall attending one of those meetings on 2 May at which officers were involved. I recall that Jane Brazier had impressed upon me her concern that if Colleen Egan had information about women or children, particularly children, and specifically the allegation about the young girl, she was desperate to do whatever she could. She wanted to know the identity of the person so that her department could act. She might have asked me, or I might have offered - I cannot recall - that when I spoke to Colleen would I implore her to give the department all the information.

**Hon ROBIN CHAPPLE:** Do you know whether that happened?

**Mr Murphy:** No, but in speaking to Colleen I relayed that to her. There was an understanding with Colleen that she was not going to publish anything that would have put any inhabitants of that camp in any danger.

**Hon ROBIN CHAPPLE:** You also indicated that Mick Gooda concurred with the evidence supplied by Colleen Egan. Do you know when Mick Gooda concurred with that view? Would that have been at the meeting on 1 May?

**Mr Murphy:** To tell you the truth, I cannot say whether I was at the May 1 meeting.

**Hon ROBIN CHAPPLE:** There were two meetings on that day.

**Mr Murphy:** I was not at the strategic management council meeting. I may well have been at the working group type meeting on 1 May. I was certainly at the meeting on 2 May. In total, I would have attended two or three of them, but I cannot tell you on which dates.

[10.30 pm]

**Hon ROBIN CHAPPLE:** Okay, notwithstanding the date, you indicated that you actually had the same evidence from Mick Gooda. Is that correct?

**Mr Murphy:** No, Mick Gooda had said that he was aware of those allegations as well. He certainly expressed in very, very strong terms his concerns and ATSIC's concerns about that community; about the safety of women and children there. I was left in no doubt that ATSIC was seriously concerned about it and was supporting the Government's actions.

**Hon ROBIN CHAPPLE:** Did you have any idea from where ATSIC administration - because that is what we are talking about - got that information?

**Mr Murphy:** I do not, no. I do not recall any names.

**Hon ROBIN CHAPPLE:** But it was a similar issue.

**Mr Murphy:** From memory, he was aware of the same allegations. It may well have been that he was speaking to Colleen -

**Hon ROBIN CHAPPLE:** Egan or another person.

**Mr Murphy:** Or another person.

**Hon ROBIN CHAPPLE:** You did mention in your evidence a little bit earlier on - I was wondering whether it was a generalisation - you said you had seen a plan. This was when we were talking about the de-structure of the Swan Valley camp. You said you had seen the plan. Was there actually a document relating to how this was all going to occur; how the women and children were going to be looked after?

**Mr Murphy:** Yes. There was an action plan, for want of another term. It went agency by agency; what was expected of them, what they were to provide. It had police involvement, you know, DCD and Homeswest. Obviously, this was based on the assumption that the legislation would pass the Parliament.

**Hon ROBIN CHAPPLE:** Do you know who created that document?

**Mr Murphy:** Who created it? I could not tell you. Lynsey Warbey may have been - it is a stab in the dark, I would guess. She had been involved in the implementation group of the Gordon response. At a bureaucratic level, if you like, in the Department of the Premier and Cabinet she was certainly a significant person in terms of planning these issues in carrying out, if you like, the executive decisions.

**Hon ROBIN CHAPPLE:** Do you know if copies of that document still exist?

**Mr Murphy:** Look, I have not seen one for a while.

**Hon ROBIN CHAPPLE:** Could you make some effort to try and find one for us?

**Mr Murphy:** Yes, I can do that.

**Hon ROBIN CHAPPLE:** Thank you. Moving on, you talked about if the troublemakers had been removed that it was the closure of the camp that was an issue. Where did the notion of the closure of the camp come from? I am not necessarily going down the track of my colleague Hon Peter Foss, but I am actually trying to get the idea of the notion that it was the closure of the camp. What was the intention for the camp at a later stage?

**Mr Murphy:** I was in no doubt attending these meetings that the Premier's view was that the camp had to close. What the meetings were about was determining what was the most effective means of doing that; what was the best way to bring that about. It was always an essential part of the discussion that that particular site or use of that particular site in the future would be retained for "Aboriginal purposes". In fact, this was one of the roles of the administrator in being appointed. That was made clear to ATSIC.

**Hon ROBIN CHAPPLE:** When you say ATSIC that is ATSIC administration?

**Mr Murphy:** Mick Gooda and I think Colleen Haywood was at one of the meetings I attended, and another chap. I am not sure whether he was from ATSIC - Gordon Cole, his name might have been.

**Hon ROBIN CHAPPLE:** There was nothing other than it was to be kept for Aboriginal purposes. The Leader of the House in the Legislative Council indicated that he saw no reason why members of the Swan Valley Nyungah Community could not go back onto the camp and continue their existence. Was that view ever expressed, as far as you are aware?

**Mr Murphy:** No, it was not. My understanding is that he was expressing a personal opinion that was not government policy and he subsequently corrected the record.

**Hon ROBIN CHAPPLE:** He indicated that again to us that he saw no reason why they should not.

**Mr Murphy:** He recently indicated that again, did he?

**Hon ROBIN CHAPPLE:** Yes. I questioned him -

You said that you thought members of the community would be able to go back to that reserve in the future. Is it your understanding that that will still be an option for those community members?

Hon Kim Chance: I cannot see what would preclude that from happening.

**Mr Murphy:** That is certainly a personal opinion that was not the view of the Government. I have had discussions with his media adviser following the publication of that. It was my understanding - I was told it was a personal view.

**The CHAIRMAN:** Do you have a date on that?

**Mr Murphy:** It would have been the date it was published, whatever day that was, in *The West Australian*, if in fact it was *The West Australian*.

**Hon ROBIN CHAPPLE:** I think it was *The Australian*.

**Mr Murphy:** Yes, you are right. It was *The Australian*.

**Hon ROBIN CHAPPLE:** When did you get the view, other than generic statements, that people were oppressed? Who prompted that information? Was it the Colleen Egan story or did the department proffer that view?

**Mr Murphy:** That was a view that would have been formed from a variety of sources, starting with the coroner's report. Certainly, from my discussions with Colleen, who I considered to be somewhat of an authority in this matter. Certainly, from my discussions with the various agencies involved.

**Hon ROBIN CHAPPLE:** It is something that we are obviously following up with the agencies and we are still trying to find out. That is it for me. Thank you very much indeed.

**Hon DERRICK TOMLINSON:** Mr Murphy, you referred to the coronial report into the death of Susan Ann Taylor. You described it as pretty strong stuff. I agree with you, it is pretty strong stuff. Do you recall when that coronial report came down?

**Mr Murphy:** If you showed me the cover sheet I could tell you the date.

**Hon DERRICK TOMLINSON:** It was 21 November 2001. It is the sort of report that calls for a strong response. Would you agree?

**Mr Murphy:** I think as history would show, that is what you would characterise the Government's response as.

**Hon DERRICK TOMLINSON:** What was the Government's response?

**Mr Murphy:** The Gordon inquiry.

**Hon DERRICK TOMLINSON:** To establish the Gordon inquiry.

**Mr Murphy:** That is correct.

**Hon DERRICK TOMLINSON:** The Gordon inquiry produced an interim report on 26 April 2002. Page 23 refers to six general issues raised in terms of reference 1. Reference 1 relates to the Swan Valley Nyungah Community -

The Coronial Inquiry into Susan's death and information received by the Inquiry can be distilled into the following issues:

- a) The widespread rape and other sexual abuse committed against young Aboriginals by members of the Aboriginal community and others;

- b) The widespread sexual and physical abuse committed against women in the Aboriginal community;
- c) The relatively small number of reported instances of sexual abuse in the Aboriginal community . . . .

It then goes on to talk about inadequacy of services. Does that not also call for a strong response?

[10.40 pm]

**Mr Murphy:** Obviously.

**Hon DERRICK TOMLINSON:** That was 26 April 2002. When was the decision made to shut down the camp, to use your term?

**Mr Murphy:** I think on 1 May, obviously.

**Hon DERRICK TOMLINSON:** 1 May 2003, or thereabouts.

**Mr Murphy:** Mm.

**Hon DERRICK TOMLINSON:** The Premier announced the decision on 14 May in a statement to the Legislative Assembly -

Mr Speaker, I lead a Government that has repeatedly demonstrated its willingness to make the tough decisions when the safety of children is at risk. That is why the Government is announcing today that it intends to close the Swan Valley Nyungah camp in Lockridge.

That is 14 May 2003. From 21 November 2001 to 26 April 2002 to 14 May 2003. That is a fairly long time for a strong response, is it not?

**Mr Murphy:** I do not see the point that you are trying to make. I would have thought calling the Gordon inquiry was a response by government.

**Hon DERRICK TOMLINSON:** Okay.

**Mr Murphy:** I do not see what the point is that you are trying to make. Are you suggesting the Government should have acted stronger sooner?

**Hon DERRICK TOMLINSON:** You suggested it was a moving report. Pretty strong stuff. You were moved by it, were the words you used.

**Mr Murphy:** Hm-hm.

**Hon DERRICK TOMLINSON:** I would have thought that would have required a strong response. You say the strong response was to appoint the Gordon inquiry. Did the Gordon inquiry make any recommendations with respect of the Swan Valley Nyungah Community?

**Mr Murphy:** I am only aware of the one recommendation.

**Hon DERRICK TOMLINSON:** Yes. There was only one recommendation. Recommendation 141. What was it?

**Mr Murphy:** That a memorandum of understanding be developed.

**Hon DERRICK TOMLINSON:** You described that as being a soft response.

**Mr Murphy:** That was my term, yes.

**Hon DERRICK TOMLINSON:** Yes, it was in your term a soft response.

**Mr Murphy:** A disappointing response, I think I said.

**Hon DERRICK TOMLINSON:** From your perspective.

**Mr Murphy:** That is right.

**Hon DERRICK TOMLINSON:** Yes. When the Premier presented the Gordon report he produced a press statement or a media statement - I guess you may have had something to do with that - on 15 August 2002, in which he said this -

Dr Gallop said the inquiry's other recommendations and findings were yet to be considered by Government departments, as legal advice had prevented the report's circulation prior to its tabling in Parliament.

However, a high level taskforce of Directors General from all relevant Government departments had been established by Cabinet to consider the report and develop an implementation plan by October.

Not a great deal of urgency in the Government's response, was there?

**Mr Murphy:** Well, I guess as perhaps **The CHAIRMAN** would appreciate, having been a minister before, perhaps things do not always go as quickly as you would like. I accept that bureaucracy moves as quickly as it is able to.

**Hon DERRICK TOMLINSON:** You indicated that the decision of closure was taken on or about 1 May 2003.

**Mr Murphy:** Hm-mm.

**Hon DERRICK TOMLINSON:** Was there any discussion of closure at any time before that?

**Mr Murphy:** Not that I am aware of.

**Hon DERRICK TOMLINSON:** As -

**Mr Murphy:** That is not to say there was not, I am sorry. But not that I am aware of.

**Hon DERRICK TOMLINSON:** As principal media adviser to the Premier, as you described your previous position, you were the first point of contact for the Press wanting access to the Premier and you were the Premier's primary source of media advice. Was it also part of your function to monitor media and look at trends and stories and keep the Premier abreast of what was happening?

**Mr Murphy:** Hm-hm.

**Hon DERRICK TOMLINSON:** Were you aware of or do you recall a story in *The West Australian* of Thursday, 15 August 2002, "Bropho could be forced from camp"?

**Mr Murphy:** The headline does not ring a bell.

**Hon DERRICK TOMLINSON:** It states -

Minister moves to dump management of 'place of mystery -

Sorry, "misery". There is no mystery about Swan Valley Nyungah Community. Charlie Wilson-Clark, *The West Australian*, 15 August 2002. If you like, I will pass it to you to confirm.

**Mr Murphy:** If you want to pass it to me.

**Hon DERRICK TOMLINSON:** No. I want to read something first. If it was *The West Australian*, 15 August, then that would have been a story that Charlie Wilson-Clark had worked up on the day before, quite possibly.

**Mr Murphy:** Probably.

**Hon DERRICK TOMLINSON:** The fifteenth was the day that the Gordon report came down.

**Mr Murphy:** Hm-hm.

**Hon DERRICK TOMLINSON:** I quote the story -

CONTROVERSIAL Aboriginal leader Robert Bropho could be ousted from the Swan Valley Nyungah Community and stripped of his control over the site.

Indigenous Affairs Minister Alan Carpenter said he was rallying support from his Cabinet colleagues to make the unprecedented move of revoking the community's management order on the grounds it had become a place of misery.

Two paragraphs later he is quoted -

"We can't allow a situation to go on where there is a closed community run in a style which is clearly horribly detrimental to vulnerable people, especially the children," Mr Carpenter said.

He wants to revoke the order which in 1994 vested 44ha in the community for the use and benefit of Aboriginals.

He said it was clear Mr Bropho and current management had failed in their duty to bring about those benefits.

Mr Carpenter said the Government could consider placing conditions on the order to allow access by authorities, or it could be cancelled and the land re-vested to freeze out the current management.

**Mr Murphy:** Hm-hm.

**Hon DERRICK TOMLINSON:** What was the date of that?

**Mr Murphy:** 15 August.

**Hon DERRICK TOMLINSON:** 15 August.

**Mr Murphy:** That is the date that it has on it. Unless it is a trick question.

**Hon DERRICK TOMLINSON:** No, it is not a trick question at all. You are smart enough to be able to read the date on the newspaper.

**Mr Murphy:** Well, you had mentioned it yourself before, so I do not see the point of the question.

**Hon DERRICK TOMLINSON:** I was refreshing my own memory. On 15 August the Minister for Indigenous Affairs, who had primary responsibility for the Swan Valley Nyungah Community, had formed the opinion that it should be closed and, according to that press report, was garnering the support of his cabinet colleagues to do that. When was the management order changed?

**Mr Murphy:** I could not tell you that.

**Hon DERRICK TOMLINSON:** Well, I will tell you when the management order was changed. Hon Alannah MacTiernan made a statement in Parliament on 17 October 2002 -

A new management order has been registered over the Lockridge land occupied by the Swan Valley Nyungah Community, which will give more assurance that the site will be managed in the best interests of its residents.

**Mr Murphy:** What was that date, I am sorry?

**Hon DERRICK TOMLINSON:** It was 17 October.

**Mr Murphy:** It was 17 October, and this was 15 August.

**Hon DERRICK TOMLINSON:** 15 August to October. Again, things are happening, are they not? The minister has made the decision it should be closed, or reached the opinion it should be closed. The Minister for Planning and Infrastructure had negotiated a change in the management order with the Swan Valley Nyungah Community. Am I correct it is a negotiated change?

**Mr Murphy:** Hm-hm.

**Hon DERRICK TOMLINSON:** Why is it correct that it is a negotiated change?

**Mr Murphy:** I am sorry. I did not understand your question. Can you repeat that?

**Hon DERRICK TOMLINSON:** Why is it a negotiated change?

**Mr Murphy:** I do not know what you mean by a negotiated change.

**Hon DERRICK TOMLINSON:** How are management orders over crown land changed?

[10.50 pm]

**Mr Murphy:** Quite frankly, I am afraid that you would have to ask someone else.

**Hon DERRICK TOMLINSON:** I will tell you. It is by one of three things: the first is by order of the Supreme Court that it is demonstrated that the people who have the management are in breach of the management order - I think that was one of the things that the Government wanted to avoid in the case of the closure in May of this year; the second is by Act of Parliament, which was the device that the Government used in May of this year; the third is by agreement to change the management order between government and those who have the management - that is, the Swan Valley Nyungah Community. Therefore, when the Minister for Planning and Infrastructure changed the management order at that time, it must have been by negotiation. Was there anything else happening at the Swan Valley Nyungah Community at that time which justified changing the management order?

**Mr Murphy:** Not that I am aware of.

**Hon DERRICK TOMLINSON:** Let me refresh your memory. Advice was given to the Gordon inquiry that a school classroom at the Swan Valley Nyungah Community had been there for several years.

**Mr Murphy:** I am aware now. You are referring to the demountable, removable or whatever classroom, yes.

**Hon DERRICK TOMLINSON:** Yes. If you give me a little bit of time I will find the specific reference to it because it is important. Again, it is *The West Australian* of 7 May 2002 -

Bropho blocks access. Department unable to retrieve school gear, Gordon inquiry told.

That article again is by Charlie Wilson-Clark. It reads -

The Education Department has left equipment worth \$80,000 at the Swan Valley Nyoongar Community for 4½ years because community leader Robert Bropho will not let workers retrieve it.

The fully equipped classroom containing filing cabinets, a fridge . . .

Education minister Alan Carpenter said it was the first he had heard of the matter and he would call for a report.

That continued for some time, including Mr Bropho appealing to the federal Minister for Heritage, Mr Kemp, against the State Government's action to close the camp. He asked Mr Kemp to intervene under the commonwealth heritage legislation. Do you recall that?

**Mr Murphy:** I do now that you mention it, yes.

**Hon DERRICK TOMLINSON:** The matter was eventually resolved after the federal minister gave his advice that it was not in contravention of the heritage Act. On 11 September 2002 a media statement by Hon Alan Carpenter read -

The Federal Government has backed the State Government's bid to remove the classroom at the Swan Valley Nyungah Community in Caversham.

The Commonwealth has decided today that there is no heritage or cultural significance attached to the classroom site.

We then have an entry into the camp and a removal of the classroom on 1 October. The reason that I am going through these very carefully is that there are three things happening at the same time. One is Mr Carpenter trying to remove the classroom, first to the north west, and then, when it was



found not to be cyclone-proof, to Bunbury, and being frustrated in that attempt. The second thing that has happened, it would appear, if the Press is correct, is that Mr Carpenter is garnering the support of his cabinet colleagues to close the camp. The third is the Government's response to the horrible Alistair Hope report, the Gordon report, and the Gordon report recommendations. The Gordon report recommendation 141 was a soft recommendation in your judgment of a -

**Mr Murphy:** MOU.

**Hon DERRICK TOMLINSON:** A memorandum of understanding. The decision to change the management order was announced by the Minister for Planning and Infrastructure. I cannot recall the date, but you have the document there.

**Mr Murphy:** I am sorry, which document?

**Hon DERRICK TOMLINSON:** The *Hansard*.

**Mr Murphy:** 17 October 2002.

**Hon DERRICK TOMLINSON:** When the Government announced its response to the Gordon report, did it accept all the recommendations?

**Mr Murphy:** From memory -

**Hon DERRICK TOMLINSON:** Perhaps I may help you. Let me refresh your memory. It accepted all but two.

**Mr Murphy:** That would be right. Was one for a children's commissioner?

**Hon DERRICK TOMLINSON:** Yes.

**Mr Murphy:** Was the other the MOU?

**Hon DERRICK TOMLINSON:** That is correct. It rejected the MOU. By the time it had made its decision on the recommendation, the management order had already been changed because it had been changed in October.

**Mr Murphy:** On what day did we actually announce the response to the report of the Gordon inquiry?

**Hon DERRICK TOMLINSON:** Unfortunately I do not have it.

**Mr Murphy:** I follow. It was obviously after October, yes.

**Hon DERRICK TOMLINSON:** Yes, it is after October. Then on 29 April we have Colleen Egan presenting to the various government departments, we are told, her story that things had not changed at the camp. She made reference to three particular incidents. On 1 May or thereabouts the decision was made to close the camp. You had a relatively slow process of responding to the coronial inquiry and the Gordon inquiry, and in the meantime other actions had led to the changing of the management order, but then suddenly the Government responds with urgent action to bring in legislation to close it and for the legislation to be passed, hopefully, in one day. As it turned out it was probably two days. By the churlish action of some of the members of the Legislative Council that was not realised. What caused the Government to act urgently after 29 April when it had had these reports since 2001?

[11.00 pm]

**Mr Murphy:** Clearly, the new management order was not having the desired effect of improving access to that community by government officers going about their lawful business, with the welfare of the women and children in mind.

**Hon DERRICK TOMLINSON:** That was the advice that was given to government.

**Mr Murphy:** The advice that was given to government, as I am aware, was that the safety of the women and children could not be guaranteed, that there was an unacceptable level of risk existing

in that community, and access continued to be an ongoing problem in that community, despite the best endeavours of government officers to gain access to that community. A combination of those concerns resulted in the Government's decision.

**Hon DERRICK TOMLINSON:** The Government had changed the management order to compel access.

**Mr Murphy:** Mm.

**Hon DERRICK TOMLINSON:** That was in October 2002, and it was not until 1 May 2003 that it accepted the advice that it had failed. What prompted the swift action?

**Mr Murphy:** The Premier's abiding concern for the welfare and safety of the women and children.

**Hon DERRICK TOMLINSON:** If the Premier had an abiding concern for the safety and welfare of the children, he would have closed that camp, surely, when the horrible report of Alistair Hope was brought down. If the Premier had an abiding interest in the welfare and safety of those children, he would have responded to the interim report of the Gordon committee of 26 April 2002. If the Premier had an abiding concern for the welfare and safety of children, he would have acted decisively when the Gordon report was brought down.

**Mr Murphy:** I disagree. I think you could not describe the Premier's actions in any of these matters as anything other than decisive. On the contrary, I find it actually quite extraordinary that perhaps you would argue that.

**Hon DERRICK TOMLINSON:** I see, yet his Minister for Indigenous Affairs, the day before the Gordon report was brought down, had spoken to a journalist and indicated that he believed the camp should be closed, and he was going to garner the support of his cabinet colleagues.

**Mr Murphy:** That is an assumption one might make from reading the story.

**Hon DERRICK TOMLINSON:** I see, so you do not believe Charlie Wilson-Clark's story?

**Mr Murphy:** That is not what I said.

**Hon DERRICK TOMLINSON:** What do you get from the story then?

**Mr Murphy:** That it is an assumption you might make from that.

**Hon DERRICK TOMLINSON:** I would have thought it was his own statement. Did he not make that statement?

**Mr Murphy:** That is an assumption you would make from reading the story.

**Hon DERRICK TOMLINSON:** I put it to you that the urgency of the action to close the camp was simply because Colleen Egan was sniffing around with a story.

**Mr Murphy:** You would be wrong.

**Hon DERRICK TOMLINSON:** Would I?

**Mr Murphy:** Yes.

**Hon LOUISE PRATT:** Hon Derrick Tomlinson raised the issue of urgency. It would appear to me that once a decision had been made to take what was fairly drastic action in the form of legislation, something like that would be expedited. Was that the general tactic?

**Mr Murphy:** That was certainly part of the discussions. There was a concern that if the legislation was held up in the Parliament it may have, in fact, placed women and children in the community at further risk and, in fact, it may well have placed public officers and police officers at risk. There was a concern that, having once signalled an intention to close the community and to introduce legislation, in fact, any delay or unnecessarily undue delay between having signalled that and actually having the administrator in place, and the logistics in place to carry out the intent of the legislation, would have simply allowed Robert Bropho's friends and protestors, if people had felt of

a mind to do that, to occupy the camp. I can recall there was, in fact, talk even of the camp being booby trapped, potentially booby trapped. There was talk of the police having a preference for, once the legislation was through, moving in daylight, perhaps in the morning rather than in the afternoon or evening, because, once it got dark, there would have been a concern about mantraps or the potential for, at the very least, injury. When you have women and children involved in an operation like that, it is not the sort of thing you would want to be doing at night.

**Hon LOUISE PRATT:** That would also seem to indicate that any discussion preceding that actual decision being made would also need to be highly confidential; so that, obviously, any previous consideration, whether it was a long time before April, or any general discussion about any of those kinds of considerations, would also have had to remain highly confidential.

**Mr Murphy:** That is right. Concerns were expressed that it was vital that the Government's intentions not be signalled prior to, or as close as possible, but, obviously, once the community got wind of what the Government was planning there was always the possibility that it would take action to frustrate the Government before the legislation was passed.

**Hon LOUISE PRATT:** You, as the Premier's former media adviser, attended a wide variety of meetings on various issues if it was established that there was likely to be a significant media interest in them; so it is not surprising that you would be participating in an ongoing basis in meetings of this kind; would that be right?

**Mr Murphy:** Exactly, yes.

**Hon LOUISE PRATT:** You said that you believe you were at the meeting when the particular tactic to be used, the particular legislative mechanism, in regard to closing the camp was first mentioned. I think you characterised that as a gentleman with a beard or something.

**Mr Murphy:** That is right.

**Hon LOUISE PRATT:** Do you know whether that was perhaps Graham Searle?

**Mr Murphy:** I am pretty sure that is the bloke's name. I did not know him by name at the time.

**Hon LOUISE PRATT:** In terms of your participation in those meetings, you did not have any reason to question the clarity of the evidence presented to you in those meetings, or to in any way question the character of the concern that departments had in regard to their statements about access to those sites.

**Mr Murphy:** Not at all. They are not areas where I would have any expertise.

**The CHAIRMAN:** There was a meeting on the 14<sup>th</sup>, the day the Premier made the ministerial statement to close the camp, with ATSI representatives and one ATSI counsellor. Were you present at that meeting? Just think back. That is the day he made the ministerial statement, there was a meeting and Miss Warbey's evidence is to do with that.

**Mr Murphy:** I do not think I was.

**The CHAIRMAN:** Have you discussed the evidence you were going to give to this committee with any other person?

**Mr Murphy:** I spoke to Lynsey Warbey this morning about dates and she gave me a copy of a chronology that she had prepared, which did not, quite frankly, help me much with my recollection of dates.

**The CHAIRMAN:** Is that all?

**Mr Murphy:** I had read the evidence of other people.

**The CHAIRMAN:** Such as?

**Mr Murphy:** On the parliamentary *Hansard* web site.

**The CHAIRMAN:** Were there any others?

**Mr Murphy:** No, that was it.

**The CHAIRMAN:** You did not discuss it with Mr Walsh?

**Mr Murphy:** Not his evidence. I think I had asked him the day after conversationally, "How did it go; what was it like; what did you think of it?"

**The CHAIRMAN:** He did not discuss the content of his evidence with you?

**Mr Murphy:** No.

**The CHAIRMAN:** And you were not aware of the nature of it; you had not seen it?

**Hon LOUISE PRATT:** I do not think that at that point we had called Mr Kieran Murphy as a witness immediately after Mr Walsh had given evidence. It was not until the week after that we formally called him.

**The CHAIRMAN:** No, but I am just asking him if he had discussed it with him. You have not discussed the content?

**Mr Murphy:** Not that I can recall, no.

**The CHAIRMAN:** Thank you very much. I am sorry to have kept you so late. Can you have a look at your transcript when it is sent to you and return it to us as soon as you possibly can; also the documents we asked you to have a look for. I am happy for you to check with other people as to what documents we are already getting from them so that we do not duplicate those. Would you make sure you send your book to the clerk rather than anybody else, and you identify those pages which you are submitting and those which you are not. Thank you. The meeting is closed for evidence. The committee will now deliberate.

**Committee adjourned at 11.11 pm**