

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
AND FINANCE**

**LAND INQUIRY**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT DANDARAGAN  
WEDNESDAY, 2 OCTOBER 2002**

**SESSION 7**

**Members**

**Hon Barry House (Chairman  
Hon Ed Dermer (Deputy Chairman)  
Hon Murray Criddle  
Hon John Fischer  
Hon Dee Margetts  
Hon Ken Travers  
Hon Sue Ellery**

[2.25 pm.]

**MINSON, HON KEVIN**  
**Managing Partner, K.J. and M. Minson,**  
**examined:**

**NIXON, MR MURRAY**  
**M.D. and M.E. Nixon,**  
**examined:**

**HEINRICH, MR MERVAN EDGAR**  
**Managing Director, Murphyl Pastoral Co Pty Ltd,**  
**examined:**

**The CHAIRMAN:** Welcome to the committee.

**Mr Nixon:** I am here in my capacity as a former member of Parliament and the former Chairman of the Standing Committee on Constitutional Affairs and Statutes Revision, the seventeenth report of which dealt with Mr Heinrich's problem. I am also here as a farmer.

**The CHAIRMAN:** This committee picked up some of the evidence heard under your chairmanship and amalgamated it with other aspects of this inquiry.

**Hon Kevin Minson:** I am here in my capacity as the former member for Greenough. This matter was considered when I was Minister for the Environment. Obviously, as the Department of Conservation and Land Management was an agency under that portfolio, it is relevant that I am here under both capacities.

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

**The WITNESSES:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. The transcripts will become a matter for the public record. If, for some reason, you wish to make a confidential statement, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Until such time as the transcript of your public evidence is finalised, it should not be made public. Premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Mr Heinrich, would you like to make an opening statement to the committee?

**Mr Heinrich:** All of you have a copy of my summary of events, which I will be reading. As I go through, I will probably be adding a little here and there and also be introducing Kevin Minson and Murray Nixon later on.

In 1982 we were approached by a field officer from the Department of Fisheries and Wildlife, Mr David Mell, who advised us that a rare and endangered plant was found on our property, namely *Acacia guineti*, and that we were not to destroy or farm the area and that a substantial fine could be imposed. The property had been bought for agricultural purposes in 1977, and we were still paying for the land, which was freehold. We did ask the field officer if there was any fencing material provided for the fence to fence the plant off. He said that there was nothing in the Act to make this provision. He showed us two plants in two separate areas, the first was a *Verticordia*, and the second was not the rare endangered species *Acacia guineti*, which he claimed it to be. I took the

liberty, after we found the real plant through cultivation, of getting somebody to take the second plant down to the CALM office in Perth to get it identified. They could not identify it. The other plant was a *Verticordia*. Neither of those plants was the *Acacia guineti*. I believe that was neglect to the highest degree.

As law-abiding citizens, we took field officer's advice and made provisions to protect the rare flora. In August 1982, the field officer, Mr David Mell, delivered an undated letter and an extract of the Wildlife Conservation Act 1950 to the house. Mrs Heinrich was the only person there at the time. No attempt was made to explain to her the right to claim compensation and how it could be executed. On 15 September 1982 a letter was written to the Department of Fisheries and Wildlife, inquiring about any compensation available for the loss of production which would occur. This letter does not seem to be on file in CALM.

As the property was purchased for the purpose of agriculture, we proceed to clear an area on the plateaus. Approximately 200 hectares or 500 acres was cleared far away from the flora was first found. In due course a wheat crop was planted for the 1983-84 season. In 1985, to our amazement, we saw thousands of the rare plant *Acacia guineti* appear. I recognised the plant from the flower book. I notified the CALM people, and they sent five people to identify it. They identified as the plant *guineti*. I believe that they were supposed to count the plants. I asked them how long they were going to be there, because there were thousands of plants. Obviously the plant seed is oily. The seed must be scratched for the moisture to get into it for germination. As we worked the land, we scratched the seed, which is like a clover seed.

**Hon DEE MARGETTS:** Does it also require burning?

**Mr Heinrich:** Burning does the same trick. This presented us with a big problem, because a considerable amount of money was spent clearing and preparing land that we found we could not use. Around 1985-86 CALM amended the Act, placing in it a \$10 000 fine if a plant was destroyed. The result was to automatically put more than 800 hectares out of production.

November 1986 an application to re-clear and clear land on the property was sent to the minister responsible for conservation and land management. The minister's reply was, "At this stage I am not satisfied that your application conforms to the spirit of the rare flora provisions of the Act." At this time we also attempted to start a tourist operation, thinking that perhaps we may be able to use this rare plant as a tourist attraction. We envisaged chalets and that sort of thing, but we could not do it then because of the losses in agriculture. We did take tourist buses through the area and we had thousands of tourists. Our idea was to educate city people about how we operate on the farm and out in the country. It was a very good tour.

In February 1987 we applied to the minister for compensation pursuant to the provisions for rare flora contained in the Wildlife Conservation Act. In response to the application, the minister gave consent to re-clear and clear by way of permit. A copy of the written consent dated 18 March 1987 showed that it was for a 12-month period.

[2.35 pm]

Now, 12 months was too short a time to get rid of that so-called rare plant, so it was impossible for us to use that land then. Three years had now passed, and in that time a substantial amount of regrowth had occurred. We were in the situation of having only four weeks to re-clear the land and plant a crop. This was an impossible task and resulted in having a useless one-year permit. We also knew that they could revoke this at any time, and a \$10 000 fine was current for the destruction of a plant. At this stage, we had to put the tourist operation on hold. To proceed with this venture, we had to rely on profits from the agricultural operation to help us through the first stages.

In August 1988, a request was made to the minister for an unrestricted licence to enable us to use all our land containing the rare flora. The reply to the request for an unrestricted licence was denied. In its place, a permit was issued for two years to take the rare flora. The permit was made out from

17 March 1988 to 16 March 1990, but was issued in writing on 28 October 1988, which gave us only 17 months anyhow. Another mistake was made by the Department of Conservation and Land Management.

At this stage, maybe I would like to introduce Kevin, and he might enlighten the committee about the fact that this plant was not rare in any case, and that was admitted by CALM itself.

**Hon Kevin Minson:** I first became aware of this towards the end of the 1980s. I think around 1988 it started to become public, and some articles were in the local paper. Obviously, during 1989 when I became a member of Parliament, I was involved because Merv enlisted my help with the matter. To set the scene, it is probably pertinent to point out that CALM has been at times, and particularly in its early years, a fairly aggressive organisation. I say that advisedly: I was its minister. I think it has mellowed over the years and become more user friendly. However, I can imagine the scene, without being there, of an inspector saying that there were rare and endangered species, and the penalty was \$10 000 a plant. Even though, of course, you know as well as I do that no court is ever going to impose that penalty, Merv did not know. I do know that the Heinrich family have got a very pretty property. It is unusual in the area. A lot of Geraldton is pretty high, flat, windswept land, as Murray knows well, but it is in a pretty part of the Chapman Valley. I think they have done a very good job of clearing it, looking after it and so on, and I know that it was not the intention of the family to over-clear it or in any way destroy it - in fact, quite the opposite.

As to the rare plant, I did not see the original plant, but it is, as Merv said, one of those plants that any farmer knows about; that is, that you do something to land, and all of a sudden this plant arrives that you had never perhaps even seen on your property before. It comes up very thickly, and it can follow a fire, unusual weather conditions or, in particular, cultivation, or perhaps chaining and a fire followed by cultivation. All of a sudden, you get an explosion of this sort of plant. That is what happened in this case. After quite a period, there was a meeting - I do not remember the date - down in the office of the director general - or whatever he was called in those days - Dr Syd Shea, at CALM in Crawley. I attended that as the member for Greenough, and I got a lift back from that meeting to Parliament House with an officer of CALM - and I cannot remember the man's name, I am sorry. However, during that car journey he said to me that this was a bit of a shemozzle and this plant should never have been declared a rare plant in the first place. Little was known about it, and I think it was even incorrectly recognised on Merv's property in the first place.

**Mr Heinrich:** The man's name was Mr Errington.

**Hon Kevin Minson:** It could have been. It was quite a long time ago and I am getting a bit older! However, I remember that comment. It was a good thing I was sitting down or I would have fallen over. I could not believe it. I came from a meeting at which CALM argued that it had done all the right things, and here was one of its officers - knowing full well that I did not have a tape recorder - telling me that the thing should never have been declared in the first place, which I felt was a bit rough. Anyhow, whether I am right or wrong, in my view, it had the hallmarks of a bureaucracy covering its backside, and I think it would be fair to say - and I said it to the director general both before and while I was a minister, and have done since - that that was the case. He, of course, rejected that, so Merv now finds himself in this situation. I think that sums it up.

**Mr Heinrich:** Yes. Thank you, Kevin. When Kevin was the minister, the first thing he did was to look at the farm himself, and he was conversant with the whole farm situation. That is more than any other minister did. In fact, one of the ministers took two years to get there, and I think Kevin had to trick her into going there.

We approached the Western Australian Farmers Federation in January 1990, as members seeking help. On our behalf, the federation wrote to the minister and pointed out our understanding that the Act did not require a written application for permission to take; and, therefore, when no such permission was granted, compensation ought to be paid. The letter stated that it appeared to the federation that Mr Heinrich had been the innocent victim of a bureaucratic system and asked,

therefore, that the minister give serious consideration to an appropriate ex gratia payment. No reply was received.

By that time it was established that the plant thrived under cultivation and that to eradicate it on land we worked could take up to 10 years. A further request for a 10-year permit was again refused and, in reply, another two-year permit, which was valid from 17 March 1990 to 16 March 1992, was enclosed. It must still be kept in mind that the permit could be revoked at any time and a \$10 000 fine could be imposed. Because of the beginning of Mr David Mell making big mistakes and not showing us the right plant, we naturally did not trust him at any stage at all, and we thought that if we started killing that plant again, we would have a \$10 000 fine, and we could not afford it.

As a result of the involvement of an opposition politician and the pressure he was able to exert on CALM, we eventually received a permit that was valid from 17 March 1990 to 1 July 2000. On 22 May 1991, a field officer delivered by hand from CALM a letter stating "Flora removed from the declared rare list - *Acacia Guinetii*." That was that, as far as CALM was concerned, but that was only the start of our debts and so on. In the meantime, in February 1991, the Ombudsman visited Geraldton, and an appointment was made to see him. Relevant information was given to him to copy and report on. As a result, in November 1991, notification came from the Parliamentary Commissioner for Administrative Investigations that he did not regard CALM's action as unreasonable and did not consider that he would be justified in recommending an ex gratia payment in our favour. The costs involved in again clearing and preparing land for production - land that has been denied to us for so long - would be at least 500 per cent above our initial outlay. In today's economic climate, this would not be a viable exercise. In the finish, we had to turn around and re-clear the whole damn lot again, and that has not even been mentioned in the costs.

On 28 June 1991, a meeting with Geoff Mercer, regional manager of Greenough-Gascoyne region, took place. Two proposals were discussed. One was the purchase by the Crown of 450 hectares of the Murphyl farm for the purpose of a national park. The second was the crown to assist through planning approval of subdivision of part of the farm for sale as individual lots. It was pointed out that the evaluations indicate that the revenues derived from the sale of blocks would not offset or balance the claims for compensation. There was a detailed computer print-out of actual yearly income and expenses of grain production and livestock production. The result was that the total loss of production combined margins was around \$1.5 million. Copies were also sent to the Minister for Agriculture. I have a complete computer print-out of that.

**Mr Nixon:** There is quite a bit in the back of the report I have here.

**Mr Heinrich:** This is a complete print-out, which I will provide to the committee. That was done on the computer - my son works the computer - and they are the actual figures of production of land on the farm. While you are looking at that, I will go on with this.

**The CHAIRMAN:** You were at the point at which copies were sent to the Minister for Agriculture and the Premier.

**Mr Heinrich:** The Premier eventually responded on 22 November 1991 by asking the Minister for the Environment to advise her on the outcome of the Ombudsman's investigations and also to have the Department of Conservation and Land Management investigate the suitability of part of our property as a conservation reserve. A Geraldton-based officer prepared a report late in 1991, following an inspection of the uncleared area of the property. Based on that report, they expressed interest in the area. A legal adviser for the Western Australian Farmers Federation sent a letter to CALM requesting a meeting to finally resolve the matter once and for all. This request was made in February 1992. As yet nothing has come of it.

At that time this was a recently purchased freehold property and was still in the development stage when costs were affordable to achieve peak production. This has left us 10 years behind. As a result of this incompetence by the department, it has put us in a bad financial position and we are

unable to farm our property to its full potential and that has caused hardship to all families concerned. Three families were trying to make a living out of it.

I introduce to you Mr Murray Nixon, who was the chairman of a standing committee which I believe suggested an ex gratia payment.

**Mr Nixon:** In 1996 I became involved with it as chairman of the standing committee, but also I was a member for the Agricultural Region. The Heinrich family were my constituents. I visited the property and I have first-hand knowledge of it. The report clearly sets out that there is no evidence that a letter requesting compensation is on file. To say the least, that is very convenient, because there is no way to prove whether the letter was posted, arrived, was misplaced or was disposed of. That is the grey area. The Heinrich family claims to have sent a letter and CALM claims that it is not on file. That is the first fact.

When the Heinrich family decided that the best way out was to sell some of the land for a national park, CALM then approached the federal Government under one of its purchasing schemes for funding to buy the property. When an offer was made to the Heinrich family, I was with the then minister. As the local member travelling with the minister, who was being informed by her adviser on the situation, I became privy to quite a bit of information to which I would not have been privy in the normal course of events. The first thing that struck me was that the department made a grave mistake over the area of property for which it had applied for federal funding. It was of the view that it was about 400 hectares, when in reality the area was about 700 hectares. You would think that any professional organisation would accurately calculate the area of the land it wants to purchase before it goes to the federal Government for funding. That was pretty unfortunate. The next thing that is even more unfortunate - I am sure Hon Dee Margetts can see the importance of this - is that if the land had been farmed, its value would have been about three times the value of natural bush. The evidence shows that if the clearing of the land had not been prevented, it would have had a value of about three times that value. This land is situated at the top of the Moresby ranges on a plateau overlooking Geraldton; it is almost immediately east of the Oakajee site. There were property sales of improved land on both the east and west sides that were valued at a far higher price than this land, which was unique because it was still natural vegetation when most of the area around it had been cleared for the simple reason that it is very old country. Anything that could easily be cleared had already been cleared. You would think that, because the land was more valuable than agricultural land, its real value would have been at least the same as the value of agricultural land and probably more. However, because the Valuer General's ruling was used, it was valued at about one-third of the price. At the end of the day, the area was adjusted. I think the figure was about \$700 a hectare for land that is only 20 kilometres from Geraldton. I am sure the committee agrees that that is a very low valuation. At this stage at least the land has been purchased, which provided some capital for the Heinrich family. However, there has been no compensation for the trauma, loss of income and all the other problems that went with it. Even if they had the capital from the sale of the uncleared land, it would have been very difficult to buy adjoining land nearby with anywhere near the agricultural value of the land that was already part of the property. I have absolutely no doubt that it resulted in a major economic loss to the Heinrich family.

**Mr Heinrich:** I will follow up on the valuations. I think you all have a paper from Ferguson Fforde showing the difference between the valuations of the Valuer General and those of Ferguson Fforde, who have been consultants for a very long time.

**The CHAIRMAN:** Can you highlight those differences for us? I know we have some documents in front of us.

**Mr Heinrich:** These are areas that Ferguson Fforde have valued. Also they are compared with the valuations of the Valuer General. The first government offer was \$370 000. The settlement price from Ferguson Fforde was \$475 000. Another one was \$500 000. The settlement price from

Ferguson Fforde was \$640 000. Another one was \$550 000, and Ferguson Fforde's valuation was \$690 000. Another one was \$450 000 and Ferguson Fforde's valuation was \$585 000. Yet another one was \$536 000, and Ferguson Fforde's valuation was \$634 000. There were a couple that the Government did not put a quote in for. One was \$260 000 and the other was \$510 000. There were no negotiations. The offer for Joyce Street, Gngangara was \$280 000. The Ferguson Fforde valuation was \$1.34 million. That is a helluva difference. You can see in the examples that the Valuer General's valuations were below those of Ferguson Fforde, who have been sworn consultants for 30-odd years, all the way through.

**The CHAIRMAN:** So that we understand the current situation, that section of your property has been purchased by the Government?

**Mr Heinrich:** Yes, it has. It still has not been surveyed yet. It paid us some money, but once it conducts the survey it will pay us the rest, but only at \$772 a hectare. We wanted \$1 000 a hectare, which is the price that Main Roads WA paid us for a portion of bush some years ago. With the tourist industry as it is now, that was very valuable land. Even though it was bush, it was on the top of the plateau, and we could see all of Geraldton and the Indian Ocean. It was a beautiful view. Tourists love to go through there and see it.

**The CHAIRMAN:** Have you signed off on the sale?

**Mr Heinrich:** We had to because we were on the bones of our bum at that stage. We had to sell it.

**The CHAIRMAN:** Are you still asking the Government to pay what you consider to be fair and adequate compensation?

**Mr Heinrich:** I think we deserve some compensation for the mistakes it has made all the way through. It has been negligent all the way through. I am not a lawyer; I am just an ordinary farmer. The Government was very smart by giving us a one-year permit and keeping us going all the way through. It kept itself out of trouble by doing just that.

**The CHAIRMAN:** Are you still negotiating with CALM or the Minister for the Environment and Heritage?

**Mr Heinrich:** Negotiations have finished. The minister will not budge. I have written to the minister in the new Government and she has said that she will take the advice of the previous minister. We seem to be in a deadlock at this stage.

**The CHAIRMAN:** I am trying to clarify that.

**Hon Kevin Minson:** With your licence and Merv's agreement, I would like to give an indication of how things transpired. When I became the Minister for the Environment, I tried to do something about this situation. Meetings were held, which uncovered something that I found quite interesting. You must bear in mind that most of this revolves around a missing letter which Merv says he sent and which CALM says it did not receive; if it did, it is not on file. I cannot make a judgment about that, except to say that I know that Merv Heinrich and his family are pretty honourable people. However, I found myself in the invidious situation of being the member for Greenough and the Minister for the Environment and wanting to resolve the issue. The Crown Solicitor said that he would fight it all the way. I saw the Attorney General and asked about the situation. In her words - I will paraphrase her - she said that as a minister I was bound by the advice of the Crown Solicitor unless I wished to leave the Cabinet and go on crusade, which would not achieve anything. I found it difficult because the Crown Solicitor - I admit his charter is to protect the Crown - said that he would fight this thing and would not agree. As the minister, I felt that there had been a falling down in due process. The Attorney General, who would have had to conduct the case, said to me that as a minister I was bound by the Crown Solicitor's advice.

**Hon SUE ELLERY:** Are you saying that the Crown Solicitor said that he would not agree to the proposition of an ex gratia payment?

**Hon Kevin Minson:** Yes. I did not make it clear. He felt that CALM was right, the Heinrich family was wrong and there would not be any payment, and that if there was litigation, the State would fight it. I am trying to say that I was in a difficult situation, but I do not need sympathy; that comes with the territory. In my view it shows up a fault in public process, because it does not matter what a minister wants to do because he is bound to follow the advice of the Crown Solicitor. That was put to me by the then Attorney General, even though I felt that it was wrong advice. I put it to the committee that it is a bit unreasonable for a Government with a Crown Solicitor and the support of a whole crown law department to be taken on by a private individual who is already in debt.

[3.20 pm]

**Mr Nixon:** It is certainly the case under various other Acts - I think something like 60 other Acts cover resuming land is for various other purposes. Under Western Australian law, if you are restricted from doing something because of environmental reasons there is no compensation. That is the first thing. The danger with this is that if somebody has a genuine rare and endangered species no-one is going to report it. They are more inclined today chip it out because if they do report it the cost to them is horrendous. If we want to protect genuine rare and endangered species it is very important that there is fair compensation for those it will disadvantage. If the community wants to use someone's freehold land for national park, the community should be prepared to pay for it. If community is not prepared to pay for it, private individuals certainly cannot afford to pay for it.

**Hon DEE MARGETTS:** My line of questioning is about the potential implications for the State if officers who are in charge of creating those lists are worried that if their information changes - which inevitably it does because so much of our land has not been surveyed at all - that somehow or other their department will be financially sued for any mistakes they make. The implications for protecting any species if officers are worried about recommending species for protection, means that at some stage a whopping great chunk will be taken out of their department's budget. I am thinking of the implications, and whether it is workable to suggest that the change of species based on further information down the track, which is inevitable, should in fact automatically mean that there is an expectation of ex gratia payment for change of that status.

**Mr Heinrich:** Just going on what Mr Nixon just said, in the future people are going to plough it in if they find one. In hindsight that is what I should have done in the first place - put a plough in and ploughed the whole bloody lot under, because all the trouble I have been through now is all for nothing. I have been looking after all these plants for years. I am a bit of a greenie myself. Before I came to Geraldton I cleared 5 000 acres of property in Kellerberrin. I left strips of bush everywhere and farmers said to me "what about the rabbits?" I said "I can deal with the rabbits but I cannot deal with the wind when it is blowing, and I need the bush."

**Hon DEE MARGETTS:** That was probably a very wise thing in hindsight, in terms of salinity and wind erosion.

**Mr Heinrich:** That is right. I study nature and I go with nature. If you go against nature you are in trouble. My motto is always to go along with nature.

**Hon DEE MARGETTS:** As you know acacia seeds are pretty hardy things. My parrots have tried eat them and they had no luck at all. The fact that you cleared that land, and the acacia seeds must have been in the soil, at any stage you cleared it or burnt it to plough, you were going to get that acacia popping up in large numbers. It was not only the department that created that. Surely there would be a cost of dealing with those acacia seedlings sprouting up here, there and everywhere. Obviously if you dealt with it earlier the cost would have been less, but you do not seem to have included in the document the difference between your original costs of clearing and the ongoing cost of dealing with it. Whatever you did, considering that obviously they thrive well when you



turn the land and add a bit of loving care, there still would have been an ongoing cost of trying to remove the sprouting acacias would there not?

**Mr Heinrich:** The plough would have fixed that straight away every year. That would have been no problem at all. You must understand that the seed is oily, and unless you scratch the seed and let the water go in it will not soil and sprout. It is water resistant while the seed is there. Until a fire goes over it and scorches it, it will not germinate. This is exactly what happened. When we ploughed it through the gravel soil, working the seed through the gravel scratches the seed and it germinates.

**The CHAIRMAN:** Mr Heinrich, you did not spend too much time on one section of your summary, on the last page. Is that an attempt you have made to quantify the cost of this whole exercise to you? Am I interpreting that correctly.

**Mr Heinrich:** Do you mean to sell part of the land?

**The CHAIRMAN:** There is a page at the end of your summary headed "livestock direct costs". Is that an attempt that you have made?

**Mr Heinrich:** You have got the summary there of how it was done.

**Hon KEN TRAVERS:** At the back of Mr Nixon's standing committee on constitutional affairs report is the breakdown of each year.

**The CHAIRMAN:** Is that an estimate of what this exercise has cost you?

**Mr Heinrich:** Yes, that is how it was done through the computer.

**The CHAIRMAN:** Yes, that is right; okay.

**Mr Heinrich:** Another thing here, talking about the valuations, is that there are two properties here for sale at the moment, in the Moresby Ranges. One property is 900 acres and they want \$850 000 for it. That works out to about \$2 400 a hectare; that is the Moresby Ranges. That is some of the money that is put on it right now.

**The CHAIRMAN:** Compared to \$700 -

**Mr Heinrich:** Yes. I think we have really been diddled there. We had no option. We had to take it because we could not go any further. We were driving trucks and doing all sorts of other things and diversifying to keep going. I have two sons. One is a builder by trade and one is a mechanic by trade and we do all our own work and we are very busy.

**Mr Nixon:** Because the Department of Conservation and Land Management had applied for federal money it had a certain amount of money to do the job, so it was very difficult for it then to revalue or do anything else. The department committed itself without negotiating with the Heinrichs. It went to the Heinrichs and said "we have so much money to buy 400 hectares" and of course it was more than that, and the valuation was also very low.

**The CHAIRMAN:** And CALM made that mistake in the first place about the 400 versus 700 hectares.

**Mr Heinrich:** We wrote a book, entitled "*The Compensation Bungle*" and the "*Not So Rare Wattle*". This book was put together by a solicitor in Kalgoorlie and the stuff was taken out of letters from CALM and from correspondence from both sides. This is a true story.

**The CHAIRMAN:** That is your story?

**Mr Heinrich:** It is not my story. The solicitor put it together.

**The CHAIRMAN:** Can you make a copy available to the committee?

**Mr Heinrich:** Can you copy it?

**The CHAIRMAN:** We can copy it and return the original to you.

**Mr Heinrich:** I have one copy left. A lot of politicians have one. I sent a lot of them out.

**The CHAIRMAN:** We will copy and return it to you.

**Mr Nixon:** I am wondering whether we might not have one on file already.

**The CHAIRMAN:** It is possible. Sarah will check that for us. We have covered a lot of ground. Do any committee members have any other quick questions?

**Hon KEN TRAVERS:** I do have one other, but it is not quick so I will leave it.

**Hon DEE MARGETTS:** I would like to throw something into the mix. If you had the opportunity to subdivide and sell the land in viable lots for conservation value, do you think there would be a reasonable market at that moment in that location?

**Mr Heinrich:** I would prefer to sell it to the City of Geraldton as a nature reserve, rather than selling it to CALM.

**Hon DEE MARGETTS:** That was not the question.

**Mr Heinrich:** I know; okay.

**Hon DEE MARGETTS:** If you were selling the farm you would be selling it privately. If there was a possibility of selling that off land with a covenant on it and there was a market for it, would that be an acceptable solution for you?

**Mr Heinrich:** With the rare flora on it we could not sell it.

**Hon DEE MARGETTS:** That is not the question. If there had been an option for you to be able to sell the land you could not use as farm land as private conservation land with a covenant, would that have been an acceptable solution for you?

**Mr Heinrich:** Not really, because they put us through hell for 10 years and we needed some sort of compensation for that.

**The CHAIRMAN:** Is there anything you want to say in summary, winding up the situation Mr Heinrich. Give us an overview of what you allude to just at the end, not only in monetary terms but the affect on your family, your business and your life in general.

**Mr Heinrich:** Our life in general has been blooming hard work to keep afloat. Since we sold some of the land it has eased the situation but I think they stole that too so we were forced to sell to keep going and we are now diversifying in different areas and hopefully we will make a living. We are growing bougainvilleas now and selling them by the thousand. We are also growing melons; we have the best watermelons in the State. The boys are professionals at all this sort of thing. They put all the right minerals and everything in the water and you get good fruit. If you feed them you get good fruit.

**The CHAIRMAN:** It sound as if those the bougainvilleas and watermelons grow as well the rare acacia.

**Mr Heinrich:** We have to look after them; we did not have to look after the others.

**Mr Nixon:** With regard to the question Hon Dee Margetts asked. We did go to the Chapman Valley shire to see what the chance was of subdividing. This was just as covenants were coming in. It was very clear that it was not shire policy to allow anything like that to happen. Perhaps in another two or three years they might have changed their mind, but we certainly went down the road of asking whether that was an option.

**Hon DEE MARGETTS:** Roughly when would that have been?

**Mr Nixon:** The report is 1996, so it must have been about that time.

**Hon Kevin Minson:** I want to clarify one thing. Hon Dee Margetts raised an important question about the removal of this plant from the rare and endangered species list. From the time they

realised that it was not endangered until the time they did something about was seven or eight years. In this period of time the whole department appeared to be in denial and did not want to know about the fact that they had made a mistake. If, right at the beginning when the department first knew it had made a mistake, it had admitted to that mistake, I do not think the question of compensation would have arisen. The department continually kept up the facade; that is impression I got. It took something like seven or eight years for them to roll over and say it was not endangered at all. I do not know whether I made that clear when you asked the question.

**Hon DEE MARGETTS:** Thanks for that.

**The CHAIRMAN:** That has given us a very thorough understanding of the background to your situation, Mr Heinrich. It will be very helpful to our committee. We appreciate your time. Thanks also to Mr Nixon and Mr Minson. At this stage we will wind up today's public hearing. I put on record my appreciation to everybody involved - our staff Sarah and Paul, as normal, and of course Hansard, who do a fantastic job getting out the public record so accurately.

**Mr Heinrich:** Thank you president and staff for listening. Thank you very much.

**Committee concluded 3.33 pm.**