



SPARK AND CANNON

**TRANSCRIPT
OF PROCEEDINGS**

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PROTECTING VICTORIA'S VULNERABLE CHILDREN INQUIRY

THE HON P.D. CUMMINS, Chair

ECHUCA

1.10 PM, TUESDAY, 26 JULY 2011

MR CUMMINS: Ladies and gentlemen, a very warm welcome in this beautiful city and region. I am delighted to invite Auntie Melva to welcome us to her country.

5 AUNTIE MELVA: Good afternoon. I'm Melva Johnson and I'm a descendant of the Yorta Yorta people. I was born and bred at Cummeragunga Mission and I've never moved far from my area. I think it's lovely to see an inquiry, good to see an inquiry into our children. I worry. I'm a chairperson of the local education committee in Echuca for the Aboriginal people and I've spent many, many long days and months and years working for the good of our children. So it's pleasing to see that there is conversation about children in our area.

10 So on behalf of the Yorta Yorta people - I won't go on because I'll go on all day if you let me - of this land, welcome to our country. Thank you.

15 MR CUMMINS: Thank you very much, Auntie Melva. Auntie, thank you for your warm and kind welcome. We acknowledge with profound respect the Yorta Yorta people and the traditional custodians of the land upon which we meet and their elders past and present and we look forward to their elders in the future for many years to come. Tomorrow we're going to meet the indigenous community and we are honoured that you have welcomed us to your country.

AUNTIE MELVA: Thank you very much.

25 MR CUMMINS: Thanks, Auntie Melva. Ladies and gentlemen, as you know, the Protecting Victoria's Vulnerable Children Inquiry was established by government and announced by the Premier on 31 January this year. The Panel consists of myself as chair, Prof Dorothy Scott, a long-time guru in the field, and Mr Bill Scales, an expert in government systems, being the chancellor of Swinburne University and the chair of the Melbourne Ports Corporation. The three of us have been appointed to investigate the system of protecting Victoria's vulnerable children in Victoria and to seek to produce practical and positive outcomes for the future.

35 The Inquiry is an inquiry into the system as a whole. It's to look at systemic issues. It's very much a solutions-focused Inquiry because our true purpose is to seek to provide solutions for a better future and it is a future-focused Inquiry. The terms of our appointment are that we do not investigate individual cases or individual organisations. As you know, there are appropriate entities in Victoria to investigate individual cases, including the Child Safety Commissioner or the Victorian Ombudsman or, tragically at times, the coroner. But we are briefed to look at the system as a whole rather than investigate individual cases.

45 We are, of course, informed by individual cases and the present situation and

the past situation and the themes and profiles that come from individual cases, the present situation and the past situation because, of course, we only learn from what has gone before us and if we don't learn from it, we will repeat it. So a state with no history or an entity with no history is like a person with no memory. So we do take into account all that has gone before and all that is presently occurring and we try to extract from that a systemic overview and then recommend to government changes in the system to produce positive outcomes to protect better Victoria's vulnerable children.

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10 We have received over 200 written submissions, some very substantial indeed and we have placed those submissions on our web site progressively because although the formal closing date for submissions was 29 April - we having published the guide to making submissions on 28 February - we have remained open for submissions after that time if people wish to make further

15 submissions. Indeed, those submissions are very much part of the data upon which we work. We analyse, we study and then we try and extract from them proposals for the future. So that body of written material is a very substantial part of our brief.

20 But we didn't want to receive just written submissions. We did want to encourage and importantly give people the opportunity to make verbal submissions. Further, and importantly, we did not want this Inquiry to be a city or metropolitan based inquiry or a city and metropolitan focused Inquiry. So we have in fact had a series of Sittings open to the public so that the public

25 can come forward and make verbal submissions either instead of written submissions or in supplementary furtherance of written submissions. We have done that in the Melbourne and metropolitan CBD and right across Victoria.

In the city of Melbourne we couldn't have done it much closer to the epicentre

30 because we have sat twice in the Melbourne Town Hall on the corner of Swanston and Collins Streets and we've sat in suburban areas of Melbourne, Dandenong, Broadmeadows, Werribee and out of Melbourne and in Geelong and across Victoria from, in the south, Bairnsdale, across to Warrnambool; from the centre areas, Ballarat, Bendigo and Shepparton; at the start of this

35 week Wodonga; today here and on Thursday Swan Hill and also Horsham we have already sat in and we have sought to make ourselves available across Victoria.

We firmly take the view that the regions are paramount and we know very well

40 that one size doesn't fit all. We're conscious of the issues in the regions, the obvious ones such as distance, access and demographics and many hidden issues as well, apart from the apparent ones. So we've had the very substantial benefit, ladies and gentlemen, of receiving verbal submissions and written submissions from right across Victoria.

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In making verbal submissions there have been two ground rules that have applied to these Public Sitings. The first is the Public Sitings are not a court of law, they are public occasions and thus whatever is said at a Public Sitting can be reported by the media and is recorded by us and published on our web site available for everyone to see, so they're truly public in that sense. In a court of law, as you know, what is said in a court of law in evidence is not subject to the laws of defamation but in a public setting, like this is, the ordinary laws of defamation apply. I'm quite sure none of this applies to any of you, ladies and gentlemen, but that is one of the ground rules which are important to state in the public setting.

The other ground rule is that under the *Children Youth and Families Act 2005* there is a specific prohibition on identifying any person who has been or is the subject of Children's Court process and that includes not just a child or parents or a family but also any witness. That is a protective provision, ladies and gentlemen, designed to protect children but it is quite a strict provision and that also applies to Public Sitings such as this. On a number of occasions people, I think most commendably, who plainly had a case in mind but wanted to really state the principle or issue underlying that case, have done so without making any identification of any persons involved in the case and have extracted from it the principle or the issue that they want to advance to the Inquiry. So that has occurred on a number of occasions very helpfully, ladies and gentlemen. So they are the ground rules for any Public Sitting.

I think most importantly in Public Sitings, however, is the question of access and locus; that is to say, people in regions do have the access to come forward to the Inquiry, do have the locus to speak before the Inquiry. If persons decide they don't wish to, that is their every right which we support, but it would be, in our view, quite inadequate if we said, "Well, we'll put up a notice and if someone wants to speak, we'll come on up and if no-one puts their hand up, well, we won't come on up." We don't think that's a proper respect to people and not a proper respect to regions. So for that I think important statement of respect and value, we have wanted to come to the regions as I have outlined.

So if anyone here would like to come forward and speak, you're very welcome to. We did have, as I say, one person who wanted to speak but she has made a written submission and has decided not to speak additionally to that written submission. So there are presently no speakers and there is no pressure on anyone to speak but the invitation is there if anyone would like to.

All right. Let me just say a little bit more about the balance of the Inquiry. As I say, we're going the extra couple of hundred K's up the road on Thursday to Swan Hill. We're meeting with the indigenous community tomorrow here in Echuca. We then have a body of material to process in Melbourne. We have largely processed all the written material. We are presently processing all the

transcripts of all the public hearings across Victoria. We have numerous specialist meetings. For example, this Friday coming I have some indigenous consultations in Melbourne and then I'm meeting with the Children's Court. I then have numerous other meetings in the next couple of weeks. For example,
5 in Geelong I'm again attending the Children's Court. In Mildura I saw the multidisciplinary centre, an excellent establishment in Mildura, and I'm going to Frankston to see another one as well. That sort of work of the Inquiry continues on and will continue on for the next couple of months.

10 We will then be in the process of doing the report. The report will be a substantial report. We are particularly keen upon two things: one I have already outlined to you and that is hearing from the community. That also includes hearing from children and we have a process in place where we are hearing from a number of children as well. As you would appreciate that
15 requires a careful degree of arrangement in order that the children are treated fairly and appropriately for their age and are treated ethically by the Inquiry.

So when all of that material has come in, we then put together our report. We, secondly, not only want and have heard from the community directly, but we
20 are particularly keen upon data. Many people have put propositions to us and we nearly always say, "Have you any data to support it?" Sometimes the data may be simply one person's experience which is very important. Sometimes the data may be very substantial and statistical and analytical and there are various data situations in between. But we do think it is important to have a
25 report that is embedded in data because patterns emerge from that which can be then applied to the future.

It was said at the start of the Inquiry by some persons - and I think perfectly reasonably - "Why have another inquiry? We've had numerous inquiries over
30 the years." I was the trial judge back in 1992 in the Daniel Valerio case - nearly 20 years ago now - and there was an inquiry by Fogarty J into that matter and numerous other inquiries from it, there have been numerous inquiries of various sorts since in Victoria, as well as nationally, and the fair question was asked, "Why another inquiry?" I think the implication in that
35 question - sometimes explicitly stated, sometimes merely inferential - is it will gather dust on a shelf - that's a pre-electronic image, ladies and gentlemen.

I think the answer to the question, "Why another inquiry?" is this: we the Panel and the Secretariat supporting us think that this is a different Inquiry, it's
40 a systemic Inquiry, it's not a backward-looking Inquiry, it's not an Inquiry looking at a case such as the case I referred to a moment or two ago. And because it's a systemic Inquiry, because it's looking for solutions and because it's looking to the future, we hope that that does make this Inquiry special and we certainly hope it will be productive. When we submit our report in
45 November, the minister receives it and then she will table it in parliament, so

that the report is a public document tabled in parliament for everyone to see. That will then be the conclusion of our function with that tabling in parliament of the report.

5 We certainly hope, ladies and gentlemen, it will produce real and practical results. That's what we're applying our year to, and we are confident that it will do that. We are encouraged by the fact that the government so early in its term appointed this Inquiry and gave it priority and we have been supported by a government in the progress of the Inquiry. The Inquiry, however, is entirely
10 independent of government. It's an arm's length Inquiry. There has been full support of the Inquiry by government but no interference whatsoever and we would expect that and that has in fact been the case. So it is a fully independent Inquiry and when it is then tabled in parliament, that will be the result of the work and then we look forward to, we hope, implementation of the
15 Inquiry thereafter.

So that is the program, ladies and gentlemen. As we all know, there is no more precious or significant matter than protecting our children. It is a mark of our society as to how we do protect our children and we hope that with your
20 support that this Inquiry will produce practical and real results. So, ladies and gentlemen, I do thank you very much for being here. I thank you also for your support and you are very welcome to stay here and have a cup of tea and it is at least nice and warm in here. With those thanks I do conclude this Public
25 Sitting and you have my warmest good wishes.

INQUIRY CONCLUDED AT 1.30 PM ACCORDINGLY