

## **“IT’S STILL IN MY HEART, THIS IS MY COUNTRY” — A CRITICAL REVIEW**

by

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The book “*IT’S STILL IN MY HEART, THIS IS MY COUNTRY*”: *The Single Noongar Claim History*<sup>1</sup> is an inferior version of a report<sup>2</sup> that I was engaged to research and write for the South West Aboriginal Land and Sea Council (SWALSC) in 2004. It also contains a 2½-page section entitled ‘About this Book’ by Glen Kelly (current SWALSC CEO), an 18-page preface by Chris Owen, a 2-page appendix containing my Brief, maps from appendices to the report (the appendices are not included in the book) and an index.

The version of my report that appears in the book has, in my view, been made inferior by excisions, additions and alterations that have resulted in serious errors. I played no part in the book’s production and the changes to my report were made without my knowledge or consent.

When I agreed to produce the report in April 2004, I signed a confidentiality agreement. When I signed the contract in May 2004, I was obliged to assign copyright to SWALSC. SWALSC in turn offered me the services of Chris Owen, its staff historian, as a research assistant. As directed by the SWALSC Senior Legal Officer at the time, I acknowledged Mr Owen’s assistance very generously in the report.

I was told that the confidentiality agreement and the assignment of copyright were standard procedures and that their purpose was to insure against the later publication of privileged and / or sensitive material. Nowhere in the confidentiality agreement or the contract was there any mention of SWALSC or a SWALSC agent altering my work, putting my name on altered work or adding another name (or other names) to my work. Such a possibility did not, therefore, occur to me, so I accepted the terms of the contract. Over a twelve-month period, I researched and wrote the report which I subsequently defended in the Federal Court of Australia where the Single Noongar Claim was heard.

When Court proceedings were finalized, UWA Press expressed interest in publishing my report and SWALSC invited me to edit it for publication on condition that Chris Owen be named as co-author. I declined the offer because, although I appreciated Mr Owen’s contribution, I did not believe that it had been sufficient to elevate him to the status of co-author. I made a counter offer to SWALSC but it was refused out of hand. I was told that SWALSC owned the copyright and would go ahead without me. At that stage, I did not have a clear idea of my rights in the matter.

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<sup>1</sup> South West Aboriginal Land and Sea Council, John Host with Chris Owen, “*It’s Still in my Heart, this is my Country*”: *The Single Noongar Claim History*, UWA Publishing, Perth, 2009.

<sup>2</sup> In the Federal Court of Australia, Western Australia District Registry, General Division (no. WAD 6006 of 2003) between Anthony Bennell, Alan Blurton, Alan Bolton and ORS (SNC) (applicant) and State of Western Australia & others (respondents) : applicant's historical report, Dr John Host (hereinafter referred to as ‘the report’ or ‘report’).

In July 2006, I consulted a lawyer who obtained a barrister's opinion for me. The opinion indicated that, although I had assigned copyright, I retained clear moral rights that would be compromised if my report were in any way altered or added to, without my consent, or if the name of another person were added as co-author or editor. My lawyer sent SWALSC a letter to that effect and I informed UWA Press. I heard no more, either from SWALSC or UWA Press, and thought the matter was settled until I learned from Chris Owen in September 2009 that the report was about to be published in book form.

I bought a copy of the book, read it closely against my report and found many changes that I will detail below. First, however, I would like to emphasize that both the original report and the version contained in the book are written in the first person. I repeatedly use words such as 'I' and 'my', and phrases such as 'in my opinion'. Readers of the book will therefore attribute the version of my report contained in the book to me. I don't know who made the changes. I will use the term 'editor' when referring to the author of the changes.

For readers who want to compare my original report to the published version, the collapsing of short chapters into long ones and alterations to chapter headings in the book could make the comparison very difficult. Those readers might like to use this article as a guide. In my comparison, I have used paragraph numbers rather than page numbers when referring to the report because the report is only accessible in computer-printout form and computer glitches can sometimes interfere with pagination. When I refer to line numbers in the report, I refer to line numbers within paragraphs. When I refer to the book, I don't mention paragraphs because those in the book are entirely different from those in the report. Instead, I refer to page numbers and line numbers, counting lines from the top of the page and including the lines of indented quotations.

I would like to publish my original report on the internet, so that readers of the book can make their own comparisons and judgements. Presently, however, I understand that to do so might be to breach copyright since I have assigned copyright to SWALSC. Comparison is nevertheless possible because, several years ago, SWALSC made copies of the original report available to the Battye Library of Western Australian History at the State Library of Western Australia and to the Australian National Library. The report is located in the Battye at Q 994.12004 HOS and the Australian National Library at Nq 994.12004 H831. Since both the book and my original report are now available to the public and have been for some time, I no longer feel bound by the confidentiality agreement because I will be discussing nothing that is not in the book or the report – in other words – nothing that is not already available to the general public. I regret that SWALSC chose not to delete certain names that appear in the report before making it public but I had no control over that choice. The anonymity of the named individuals could have been protected without compromising either my commentary or my footnote references.

At this juncture I want to acknowledge that the original report is not perfect. It contains a number of typographical errors, some of which have been corrected in the book.<sup>3</sup> Other

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<sup>3</sup> In the report, for example, in one instance I wrote Europeans when I meant Aborigines. See report, para 195 line 4 and the substitution 'Aboriginal People' in the book, p.74 line 15. In the report, I also omitted the words 'do so' at the end of a sentence. The words have been added to the book: see report para 558 line 5 and book p.224 line 18.

typographicals have been carried over into the book<sup>4</sup> and in numerous instances, my grammatically correct constructions have been changed to incorrect forms.<sup>5</sup> Changes to the syntax of my report have produced other errors in the book and I won't comment on all of them but there is one in particular that deserves comment. At paragraph 180 line 1 of the report, I write: 'on mentioning quipple sickness, Mokare conveyed the impression that there were degrees of wrong-doing ...'. In the book, on p.68 line 7, 'quipple is italicized and a comma is placed after it. The italics don't concern me but the comma does. At paragraph 179 line 7 of the report, I explain that 'quipple' is the Noongar word for 'theft'. In the book version, commas after 'quipple' and 'sickness' give them an equivalence as objects in apposition. I refer to 'quipple sickness' as I would to sea sickness. When 'quipple' and 'sickness' are placed in apposition, they are implied to refer to the same thing, as in: 'on mentioning Charles, the Prince of Wales'. I accept full responsibility for any typographical or grammatical errors in the original report but I stress that I am not responsible for any changes made to my report in the book version.

Because of the way my report has been treated in the book, the issue of authorship is no longer my main concern. Indeed, I want to disassociate myself from the book, but I also want to defend my report. In what follows, therefore, I will outline excisions from, additions to and alterations to my report. I will also explain why I believe that the changes made to my work, without my knowledge or consent, misrepresent and diminish my report and compromise my reputation as a rigorous and reliable historian.

I won't comment on the index or Mr Owen's 'Preface'. I have no interest in them. Before turning to the version of my report contained in the book, however, I want to comment on several parts of the book. First, on p.iv, under the copyright notification, there is a further notification to the effect that '[t]he moral right of the author has been asserted'. This notification is ambiguous because it refers to a single author and the book is attributed to 'South West Aboriginal Land and Sea Council, John Host and Chris Owen'. I assigned copyright to SWALSC but know nothing of any moral right that SWALSC or Chris Owen might have in my report. I asserted my moral right when I informed SWALSC and UWA Publishing of the legal opinion I obtained about the authorship and editing of my report, and I believe that SWALSC and UWA Publishing have chosen to disregard it.

My second objection is to Glen Kelly's 'About this Book'. On p.17 of my report, I write:

The word *Noongar* means *man* and it is also the collective term used by south-western Aboriginal people to identify themselves as a cultural and linguistic group distinct from other Aboriginal peoples. The dual function of the term was recorded in studies and word-lists compiled in the early-settlement period. As with many Aboriginal words, its

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<sup>4</sup> See, for example, 'fatal spearing fatalaties' (the word fatal is of course redundant) in the report, para 180 line 9 and the book, p.68 line 17; the omission of an apostrophe from 'Mokare's' in the report, para 181 line 6 and the book, p.68 line 25; and the mis-spelling of 'ochre' in the report, para 196 line 5 and the book p.74, 5 lines from bottom of page.

<sup>5</sup> In the report I write: 'Most [Aborigines], it seems, preferred traditional lifeways and were able to maintain them because game was plentiful'. See para 398 lines 4-5. In the second clause of this sentence, the implied plural subject, 'most Aborigines', agrees with the plural verb, 'were'. In the book, the plural verb, 'were', has been changed to the singular verb, 'was'. In this construction, subject and verb don't agree. The result is the clearly incorrect expression, 'most Aborigines was able'. See book p.158 lines 15-16.

transposition into the written English form has resulted in a variety of spellings, including 'Noongar', 'Noongah', 'Nyungar', 'Nyungah', and 'Yungar'. All are equally acceptable but I have adopted 'Noongar', the spelling favoured by the South West Aboriginal Land and Sea Council which commissioned this report.

At the end of Mr Kelly's piece entitled 'About this Book', he writes:

Finally, in this book SWALSC use [sic] the spelling *Noongar* but it may also be displayed as Nyungar, Nyoongar, Nyungah and Yungar.

Mr Kelly has used the underlined words without citing me and those words have been excised from my narrative so that in the book, my text appears as follows:

The word *Noongar* means *man* and it is also the collective term used by south-western Aboriginal people to identify themselves as a cultural and linguistic group distinct from other Aboriginal peoples. The dual function of the term was recorded in studies and word-lists compiled in the early-settlement period. All are equally acceptable but I have adopted 'Noongar', the spelling favoured by the South West Aboriginal Land and Sea Council which commissioned this report.

Without the excised section, my text does not make sense. The sentence - 'All are equally acceptable but I have adopted 'Noongar', the spelling favoured by the South West Aboriginal Land and Sea Council which commissioned this report' – has no referent. Quite aside from Mr Kelly's use of my words without acknowledgement, the error resulting from the excision conveys the impression that I am a careless and unreliable historian.

Third, in 'About this Book', Mr Kelly writes: 'This [Dr John Host's] text remains for the most part as it was originally filed in court, albeit with minor changes. Some cumbersome legal terminology, which was a requirement of the court process, has been changed and a series of tables and large appendices containing references to Aboriginal Corporations, Aboriginal leased land and Aboriginal Reserve Land Tenure have also been excised'. Mr Kelly does not supply an example of the 'cumbersome legal terminology' to which he refers; he does not mention that the excision of tables has been accompanied by changes to my text; and he does not reveal that some changes to my text have resulted in a reversal of my meaning. Neither does he mention the excision of substantial passages, footnote references and cross-references from my text nor insertions into my text. I will return to these matters presently.

Finally, Mr Kelly indicates that '[a] number of confidential "Native Welfare" records have been removed [from the book]' because of their 'invasive, racist, and usually demeaning' character. He adds that '[t]he records remain the cause of enormous pain and we have endeavoured to respect families' privacy by not including names where possible'.<sup>6</sup> Curiously, however, all of the

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<sup>6</sup>See the book p.viii.

information pertaining to the confidential 'Native Welfare' records, referred to by Mr Kelly and discussed in my report, has been carried over into the book: only the footnote references have been removed.<sup>7</sup> Since the records in question are restricted and each reference contains only the name of a defunct department, the name that appears in the text and a code number, the excisions serve no useful purpose. They do, however, devalue my report and my reputation by creating the appearance that I have made an entire set of claims without reference to any evidence. The excision of references is especially damaging to me, because, in my introduction to the report, I place great emphasis on the importance of documentation and I am critical throughout the report of historians who do not substantiate their claims.

To return to excisions, the cumbersome legal terminology that Mr Kelly refers to consists of phrases such as: 'in my opinion, based on my training, skills, experience and the available evidence'. In all of my published work I have used phrases like 'in my opinion', and 'in my view' to distinguish between my opinions and documented fact. In parts of the original report I added phrases such as 'based on my training, skills, experience and the available evidence' on the advice of the former SWALSC Senior Legal Officer, but I don't think the terminology is distinctively 'legal' or especially cumbersome. In every instance of its usage, the phrase has been excised entirely or partly from the book version of my report but I fail to see how the excisions serve any useful purpose. The phrase 'in my opinion' is another matter. Every time it, and phrases with the same burden, have been excised from the book version of the report, the effect has been to transform speculation, or the expression of an opinion, into an objective statement. As a result, I appear to make assertions that lack any documentary foundation. In paragraph 175 at line 1 of the original report, for example, I write:

In my opinion, had Barker related the situation to other experiences he recorded, he might have noticed that the Western concept of biological paternity had little if any real significance in Aboriginal society.

And again, in the first sentence of paragraph 176, I write:

The high value placed on children and the flexibility of parenting arrangements clearly help, in my opinion, to illustrate the adaptability of Aboriginal people to changing circumstances.

The above comments are not supported by evidence and their speculative character is acknowledged by the words, 'in my opinion'. When the words 'in my opinion' are excised as

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<sup>7</sup> See report para 400 note 1351 and book p.201.

they are in the book version,<sup>8</sup> the passages are transformed. They become unsubstantiated assertions. Again, because I am critical in the report of historians who fail to substantiate their claims, the excisions produce the impression that I fail to meet the standards I set for other historians.<sup>9</sup>

The excisions also create other kinds of problems. For example, in the original report, I write of Aboriginal constables: 'They were, according to Green, expected to maintain peace in their respective districts for a pound of flour a day'. The words, 'according to Green' are excised from the book version of my report and the effect is to make Green's words mine.<sup>10</sup>

To add insult to injury, the 'editor' has inserted a number of passages into my text that include phrases calculated to make the insertions seem like my words. For example, at the end of paragraph 66 and the beginning of paragraph 67 of the original report, I write:

This is a curious statement, for if most such killings occurred out of sight and went unrecorded, then how can Green possibly know that they occurred? What then of his argument for extinction by disease (end of paragraph 66).

Green prefaces his discussion of disease with a reference to Richard Broome who wrote that in the east of Australia, disease struck down Aboriginal people in great numbers (beginning of paragraph 67).

In the book, these passages are changed to the following:

If most such killings occurred out of sight and went unrecorded, then how can he [referent uncertain] possibly know that they occurred.

I will now examine Green's argument for extinction by disease. His discussion of disease is prefaced with a reference to Richard Broome who wrote that in the east of Australia, disease struck down Aboriginal people in great numbers.<sup>11</sup>

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<sup>8</sup> See book p. 66 lines 4 and 21.

<sup>9</sup> For further excisions of the phrase 'in my opinion' and other expressions of speculation, see report, para 131 line 1 and book p.49 last line; report para 133 line 1 and book p.50 line 14; report para 175 line 1 and book p.66 line 4; report para 176 line 2 and book p.66 line 21; report para 187 line 1 and book p.70, last line; para 196 line 5 and book p.74 line 33; report, end of para 225 and book p.89 line 31; report para 249 line 1 and book p.100 line 14; book para 250 line 3 and book p.100 line 31; report para 270 line 17 and book p.110 line 26.

<sup>10</sup> See report para 334 line 3 and book p.134 line 14.

<sup>11</sup> See report, end of para 66 and beginning of para 67, and book p.25 lines 27-33.

The underlined section of the book version – ‘I will now examine Green’s argument for extinction by disease’ - has been added.<sup>12</sup> A similar insertion occurs in the book on page 24 where the ‘editor’ inserts the sentence: ‘Below I will examine the material and show why I consider this view incorrect’. In a further example, I end paragraph 72 of the original report in the following way:

For all his [Green’s] speculation, he does not speculate that Aborigines might be reproducing. Reproduction certainly concerned the authorities of the day, so much so that they created the 1905 Aborigines Act. Nor does Green speculate that the hostility Aborigines had experienced led many to avoid settlers including census takers. Such possibilities are not conducive to the argument that current Aborigines are outsiders, but they are explored very thoroughly by proponents of the ‘survival thesis’.<sup>13</sup>

In the book version of my report, the ‘editor’ has excised this ending and inserted a new paragraph beginning with the words: ‘To finalise this summary of evidence provided by Green, I note that he does not factor into his analysis that Aboriginal people have been reproducing’. The inserted paragraph continues:

The fact that Noongar people were reproducing concerned the authorities of the day so much that they created the 1905 Aborigines Act. Dr Green speculates that the hostility Aborigines had experienced led many to avoid settlers, including census-takers. Such possibilities are not conducive to the argument that current Aborigines are outsiders, but they are explored very thoroughly by proponents of the survival ‘thesis’.<sup>14</sup>

The first point I’d like to make here is that my emphasis in the original report was not on Green’s ‘evidence’ but his lack of it. The closest I came to citing Green as a source of evidence was in my use of *The Journals of Captain Collett Barker 1828-1831* in a 1992 volume edited by Green and John Mulvaney. My next two points are that the ‘editor’ not only impersonates me by using the words ‘I note’ but s/he also reverses what I write about Green’s speculation on hostility experienced by Aborigines.

There are other insertions, which also appear to be my words but are not. In the original report at paragraph 49, for example, I write with reference to an unsubstantiated claim by the late Ronald Berndt:

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<sup>12</sup> See report para 66 lines 14-15 and book p.24 lines 21-22.

<sup>13</sup> See report para 72 and book p.27 line 13.

<sup>14</sup> See report para 72 lines 10-16 and book p.27 lines 13-20.

He also asserted that within 50 years of settlement, the south-west was practically bereft of 'true-blooded' Noongars; that by 1901 the Noongar population had declined from an estimated 13,000 to 1,419, 'of whom 45% were half-caste'; and that the only 'full-bloods' left in the area were outsiders.<sup>15</sup>

After the third word in this quotation, the 'editor' has inserted the passage, 'without doing any fieldwork in the South-west'. The inserted words are undocumented. Also undocumented is an inserted passage to the effect that, '[b]y way of comparison, five times more money was spent on prisoners at Fremantle gaol than was spent on Moore River inmates'.<sup>16</sup> Even were the passage supported by evidence it would be of no real use because the 'editor' says nothing about the comparative populations of Fremantle gaol and the Moore River Settlement, nor does s/he mention whether the 'five times as much' was an overall or 'per person' figure.

Because the inserted passages are undocumented and appear to be my words, they further the impression that I argue by assertion while demanding documentation from other historians.

With regard to the excision of cross-references, I can think of no reasonable explanation. The only purpose of the cross-references was to assist readers to evaluate my work by directing them back or forward to the precise locations of associated claims or arguments. I can only speculate that because I wrote the report in easy-to-read, single-topic paragraphs, which have been collapsed in the book into multi-topic paragraphs that often go on for several pages, the 'editor' found the task of re-ordering the cross-references too onerous.

Other excisions, such as the removal of interpretative sentences at the ends of paragraphs, serve to eliminate elements of my argument. In paragraph 42 and 43 of the report, for example, I assess claims made in two texts about the imminent extinction of Noongar people. At the end of paragraph 42, with reference to a history edited by Sir Hal Colebatch, I write: 'Asserted rather than demonstrated, these claims were reprised with minor changes by F.K. Crowley in 1960'. This sentence explains why I have included the foregoing information and provides a connection to paragraph 43 where I review Crowley's claims. The excision of the underlined sentence bewilders me. It does not enhance my argument or my narrative. Instead, like the excision of cross-references, it makes my meaning harder to grasp and my narrative harder to follow.

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<sup>15</sup> See report para 49 lines 10-11 and book p.19 line 20.

<sup>16</sup> See book p.165 lines 28-29. The passage is inserted after a part of the text that corresponds to para 416 in the original report.

Soon after I began my research for the report, I found that the secondary literature on Noongar people could be divided into two categories: texts in which it is argued that Noongar people have survived from 1829 to the present with the fundamentals of their culture intact; and texts in which it is argued that descendents of the original Noongars of 1829 have become extinct. In assessing all of this literature, I devised the terms 'the survival thesis' and the 'extinction thesis'. It soon became clear that historian Neville Green was currently the leading proponent of the extinction thesis. He has also written that people who identify as Noongar today have no connection to the Noongars of 1829 and have moved into the south-west from other areas. Had the extinction thesis been proven correct, I would not have been able to meet the terms of my Brief.

I examined all available primary and secondary literature in which Noongar extinction was predicted and subjected all of Green's works to deep critical analysis, checking all of his references and testing his claims against the historical record. Time after time, I found that his claims did not stand up to close scrutiny, and I concluded that the extinction thesis was fatally flawed. I believed it imperative to demonstrate that the extinction thesis could not be sustained so I argued my case rigorously. In my treatment of Green's work, I chose my words with extreme care and believe that every word of my critique was important. The treatment of that critique by the producers of the book demonstrates the extent to which they have seen fit to excise from, add to and change my text. In paragraph 63 of the report, for example, I write:

Although Green's report contains a massive volume of documentary information, none of it, in my view, raises his substantive claims above the level of conjecture. He demonstrates neither the extinction of metropolitan Noongar people nor their replacement by people from other areas. In a narrative of 300 pages (excluding appendices and his discussion of coastal islands), Green builds a picture of the metropolitan claim area as one inundated by outsiders as local Aborigines succumbed to a remorseless wave of epidemics and inter-tribal conflicts. Through repetition, unsubstantiated generalizations, lengthy references to theoretical literature and protracted discussions of literature on other states, he conveys an impression of people dying out in vast numbers. Similarly, he creates an impression of wave after wave of in-bound immigrants by treating every hint of Aboriginal travel as permanent migration. In some instances, he recycles examples and the effect is to create an illusion of substantial numbers.

On page 24 of the book, at lines 13-22, this paragraph has been changed to:

Although Dr Green's report contains a considerable volume of documentary information, none of it, in my view, raises his substantive claims above the level of conjecture. He

demonstrates neither the extinction of the Noongar people of the greater metropolitan area nor their replacement by people from other areas. The evidence produced demonstrates neither the extinction of the Noongar people of the greater metropolitan area nor their replacement by Aboriginal people from other areas. He argues that the metropolitan claim area was inundated by Aboriginal people from other areas of the state, and local Noongars succumbed to epidemics and intertribal conflicts and the people's traditions died off. Below I will examine the material and show why I consider this view incorrect.

None of the underlined words in the book version are mine. The word 'Dr' has been added, the word 'massive' has been replaced with the word 'considerable' and the words 'metropolitan Noongar people' (line 3) have been replaced with the words 'the Noongar people of the greater metropolitan area'. From the end of the third sentence, my text has been excised and replaced with an entirely different passage. The 'editor' has deleted information that I believe to be important, replaced it with an expanded restatement of the second sentence and attributed the result to me by inserting the clause, 'I consider this view incorrect'.

In the book version of my report, the following changes have also been made to my critique of Neville Green's work.

In the original report, paragraph 64 begins with the clause 'It is a historical fact that'. This clause has been excised from the book version and sentences one and two have been joined with the word 'and'.

In paragraph 66 at line 5 of the original report, I write: 'In Appendix 1 of *Broken Spears*, Green lists 121 Aborigines who died at the hands of settlers from direct encounters, surprise attacks, reprisals and executions'. In the book on p.25 line 18, this sentence has been changed to 'In Appendix 1 of *Broken Spears*, 121 Aborigines who died at the hands of settlers from direct encounters, surprise attacks, reprisals and executions are listed'. The rewriting of sentences to remove Green's name, the replacement of 'Green' with 'he' and the insertion of the title 'Dr' before Green's name seem to occur when I am particularly critical of Green's work (when I am at my most critical the 'offending' passages are excised altogether).<sup>17</sup> I can only speculate on the 'editor's' purpose but I can say that, in my opinion, the revisions result in awkward sentences like the one cited above from p.25 line 18 of the book and confusing sentences in which referents become unclear.<sup>18</sup>

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<sup>17</sup> Compare, for example, report para 66 lines 11 & 14, para 67 line 2, para 69 line 1 with book p. 25 lines 24, 27, 32, p.26 line 20.

<sup>18</sup> See the para after the next.

From line 10 of paragraph 66, I write: ' ... six deaths a year are scarcely enough to wipe the population out. Possibly aware of this anomaly, Green observes that "it was impossible to gain an accurate figure of inter-tribal killing because most would take place in the bush and out of the sight of settlers". This is a curious statement, for if such killings occurred out of sight and went unrecorded, then how can Green possibly know that they occurred? What, then, of his argument for extinction by disease?' The underlined sections have been changed in the book on p.25 lines 23-28. The words 'scarcely enough' have been replaced with 'clearly not enough' and 'Green' has been changed twice to 'he'. The clause 'This is a curious statement' and the question 'What, then, of his argument for extinction by disease?' have been excised.

In paragraph 67 at line 1, I write: 'Green prefaces his discussion of disease with a reference to Richard Broome who wrote that in the east of Australia, disease struck down Aboriginal people in great numbers. Green observes that it is reasonable to expect a similar impact in Western Australia, then notes that Aboriginal people in the west were most severely affected by whooping cough, influenza, measles and smallpox. He lists the years and places in which outbreaks of these diseases occurred but does not record any deaths. Further along, he suggests that "[b]y 1837, half of the 1829 metropolitan population may have died". He adds that we know "death from whooping cough, influenza and measles after this time was considerable", but he gives no examples. After several similar references, he notes a number of deaths including those of 10 pupils at Guildford in 1841, four pupils at Perth in 1844, one adult at Wannaroo in 1844 and another adult at Guildford in 1881'. These examples differ slightly from a summary in his concluding section where he gives a figure of 12 rather than 10 for the Guildford pupils and omits the four Perth pupils. In addition to the deaths at Guildford, the summary refers to:

Bunbury 1853: many ill with influenza

Perth 1853: 2 prisoners died of influenza

York 1854: reported cases of influenza and ophthalmia (no specific deaths)

Albany 1860: 60 reported to have died of influenza

Rottneest 1883: 7 prisoners died of influenza

Rottneest 1892: 7 prisoners died of influenza or enteritis

In the book, on p.25 at line 29, the following sentence has been inserted: 'I will now examine Green's argument for extinction by disease'. My first sentence has been changed to: 'His discussion of disease is prefaced with a reference to Richard Broome who wrote that in the east of Australia, disease struck down Aboriginal people in great numbers'. My second sentence (third sentence in the book) begins with 'Green observes that it is reasonable to

expect ... ' but in the book 'Green' is changed to 'he'. Because the last person named before 'Green' is replaced with the personal pronoun 'he' in the book version, Broome rather than Green appears to be the referent of the personal pronoun. The words 'Further along' are replaced with the word 'and', and the words 'He adds that'<sup>19</sup> have been changed to 'adding'. The result is that three clear, compact sentences have been converted into a single, confusing sentence of five lines with three different topics.

At line 9 of paragraph 67, I write: 'After several similar references, he notes a number of deaths ... '. The referent of the personal pronoun 'he' is clearly Green because he is the last person named before the pronoun. In the book, the sentence has been changed to 'After several similar references, a number of deaths are noted ... '.<sup>20</sup> It is not clear in this sentence who has noted the deaths. The last third of paragraph 67, from the words 'In addition to the deaths at Guildford', contains important details but, inexplicably, it has been excised from the book version of the report.<sup>21</sup>

In the last three lines of paragraph 68 in the original report, I wrote: 'Doubtless many more deaths went unrecorded, but, on the evidence that Green supplies, there is simply no basis for his claim that disease decimated or even halved the metropolitan Aboriginal population'.

In the book, this passage has been changed to: 'Doubtless many more deaths went unrecorded, but, on the evidence supplied, there is simply no basis for his claim that disease substantially damaged or even halved the metropolitan Aboriginal population'.<sup>22</sup> By replacing 'on the evidence that Green supplies' with 'on the evidence supplied', the 'editor' makes the sentence ambiguous and confusing. In the revised construction it is unclear whether the evidence referred to is supplied by Green, or to Green, or to me. The 'editor' seems determined, in the context of all of the other changes, to take the edge off my critique and to create the impression that although I disagree with Green in some instances, I regard him overall as an authority. Any reader of my original report would recognize that I am highly critical of Green's work and that I do not regard him as a reliable historian.

My speculation above on 'editorial' intentions is reinforced by the re-writing of paragraphs 69 and 70 of the version of my report that appears in the book. In paragraph 69 of the original report, I write:

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<sup>19</sup> See report para 67 lines 7-8 and book p.26 lines.

<sup>20</sup> Book p.27 line 4.

<sup>21</sup> See book p. 26 line 9.

<sup>22</sup> See book, p.26 line 17

Green's account of migration to the metropolitan area is equally problematical. He treats all travel by Aboriginal people as migration, even if it is to a nearby town, and each traveller's final destination as metropolitan Perth. He cites theories of migration and migration studies of other areas that have no direct relevance to Western Australia, makes dubious connections that do not seem consistent with the historical record, muses repeatedly on 'what might be the case' then returns to his musings as though they were proven fact. Early in the report he speculates that although Aboriginal men who accompanied settlers to the north in the 1840s appear in the historical record as 'Swan Valley natives', they may have come from Albany, Pinjarra or Rottnest prison. Further along, he writes that in the same period the metropolitan Aboriginal population increased despite an accelerated death rate from disease, a death rate that he *has not demonstrated*. Citing W.E.H. Stanner's now outdated *fatal attraction theory*, he suggests that people from remote areas were drawn irresistibly to settlements where they created the illusion that local Aboriginal populations were constant. He then cites Bates to the effect that residents at Maamba reserve in Cannington (70-80 years later) had come from various places beyond the metropolitan area. Evidently he has forgotten his judgement that Bates is unreliable.

In the book version, paragraph 69 is changed to:

Dr Green's account of migration to the metropolitan area is equally problematical when examined. He tends to view all travel by Aboriginal people as migration, even if it is to a nearby town, and view each traveller's final destination as metropolitan Perth. Furthermore, the theories of migration and migration studies of other areas that are cited have no direct relevance to Western Australia. He writes that in the 1840s the metropolitan Aboriginal population increased despite an accelerated death rate from disease, a death rate that *he has not demonstrated*. Citing W.E.H. Stanner's now outdated *fatal attraction theory*, he suggests that people from remote areas were drawn to settlements where they created the illusion that local Aboriginal populations were constant.<sup>23</sup>

In the rewriting of this paragraph, the word 'Dr' has been added, as has the phrase 'when examined'. The latter seems totally unnecessary because one could not know if Green's account were problematical *unless* one examined it. The phrase 'He tends to view' does not equate with the original 'treats' and the substitution of the phrase 'that are cited' for 'he [Green] cites' makes it unclear who cites the theories and studies referred to. As can clearly be seen, the underlined sections of the original report have been excised from the book version, as has all of paragraph 70 in which I write:

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<sup>23</sup> See book p.26 lines 20-30.

At this point, Green seems satisfied that he has proven the connection between population increase and in-migration because, when he returns to it, while discussing the difficulty of reconciling Anglicized names of the 1860s with Aboriginal names of the 1830s, he suggests that the fact of in-migration makes the task harder. He offers few examples to illustrate the supposed influx and few of outsiders who remained permanently in metropolitan Perth. He speculates, however, that ex-prisoners probably remained in the metropolitan area because there is little evidence that they were escorted back to their home countries. From this point forward, he sees signs of immigration everywhere. Outlying camps become staging posts for in-bound immigration while each seasonal worker and traveller becomes an immigrant. In 1915, for example, there were complaints about a camp at Bassendean and a Corporal Wesson attributed the trouble to casual campers from surrounding centres. Unless Green has more information than he has supplied, they might have been neighbours from Maylands, or Lockridge, or Guildford or Midland but to him they were immigrants bound for Perth.

After this excision, paragraphs 71 and 72 are rewritten. In the original report I write:

Because Success Hill camp was near the Guildford and Midland railway, Green sees it, too, as a staging post. Similarly, when he cites a document from 1851, in which a local Magistrate reports 'a lot of Gingin Aborigines around Guildford and Wexcombe', he recognizes immigrants. When 'a small group of Aborigines' arrived at a Toodyay property in 1853 after travelling 'some 200 miles from the Northeast', they were immigrants. They expressed their intention of going home and offered to take 'the whites ... to their country', but Green deduces, in my view incorrectly, that they came to stay. A group of Albany men camped at Monger's Lake in 1833, outsiders who came to visit the Royal show and camped at Butler's Swamp, and grape-pickers who camped at Caversham, were all likely immigrants. When people travelled from Quairading or Beverley to York they were immigrants. If outsiders stopped at a camp they were immigrants and if a relative should have chanced to visit them, he produced a 'chaining effect'.

According to Green, drought and depression drove immigration to metropolitan Perth as did child endowment and social security. The provision of housing to army families attracted outsiders. Even A.O. Neville's pass system, designed to keep Aboriginal people out of Perth, was a sign that they were flooding in. Green identifies a handful of outsiders who came to Perth and allegedly stayed, but most of those he names were simply in the metropolitan area at a given moment. He provides no evidence that they remained and no evidence of the influx he refers to. He cites Ronald Berndt twice to the effect that in-migration and inter-mixing left 'the entire South-West with primarily a part-Aboriginal population – few of them directly descended from the original local people', but each time he fails to notice that Berndt's opinions are either unsourced or inadequately sourced. For

all his speculation, he does not speculate that Aborigines might have been reproducing. Reproduction certainly concerned the authorities of the day, so much so that they created the 1905 Aborigines Act. Nor does Green speculate that the hostility Aborigines had experienced led many to avoid settlers, including census takers. Such possibilities are not conducive to the argument that current Aborigines are outsiders, but they are explored very thoroughly by proponents of the 'survival thesis'.

In the book, on pages 26 and 27, paragraphs 71 and 72 are transformed into the following:

A few examples may illustrate this point. Because the traditional camping area the Success Hill camp was near the Guildford and Midland railway, Green perceives it as a staging post. Similarly, when he cites a document from 1851, in which a local magistrate reports 'a lot of Gin Gin Aborigines around Guildford and Wexcombe', he construes them as immigrants. When a small group of Aborigines arrived at a Toodyay property in 1853 after travelling some 200 miles from the Northeast', they are again labelled immigrants even though the full record states they expressed their intention of going home and 'offered to take 'the whites...to their country'. A group of Albany men camped at Monger's Lake in 1833, outsiders who came to visit the Royal Show and camped at Butler's Swamp, and grape-pickers who camped at Caversham, are also termed immigrants. Dr Green identifies a few outsiders who came to Perth and allegedly stayed, but most of those were simply in the metropolitan area at a given moment. No evidence is provided to show that they remained nor of the influx he refers to. Ronald Berndt is cited twice to the effect that in-migration and intermixing left 'the entire South-West with primarily a part-Aboriginal population – few of them directly descended from the original local people', but each time he fails to notice that Berndt's opinions are either unsourced or inadequately sourced.

To finalize this summary of evidence provided by Green, I note that he does not factor into his analysis that Aboriginal people have been reproducing. The fact that Noongar people were reproducing concerned the authorities of the day so much that they created the 1905 Aborigines Act. Dr Green speculates that the hostility Aborigines had experienced led many to avoid settlers, including census-takers. Such possibilities are not conducive to the argument that current Aborigines are outsiders, but they are explored very thoroughly by proponents of the 'survival thesis'.

I won't comment here on the clumsy, inelegant re-phrasing of my words except to repeat that it gives the impression that I cite Neville Green as an authority. That seems clearly to be exemplified in the passage that begins: 'To finalize this summary of evidence provided by Green, I note'. The passage (as indicated above) is attributed to me but the words, like all of the underlined words in the foregoing reproduction of the book version of my report, are not

mine. A more serious offence, as I have noted above, relates to the sentence 'Nor does Green speculate that the hostility Aborigines had experienced led many to avoid settlers, including census takers'. By excising the words 'Nor does' from this sentence, the 'editor' actually **reverses** its meaning.

In the book, the 'editor' has collapsed three chapters of the original report – 'The Survival Thesis', 'Prehistorical Study of the South-West' and 'Early Exploration 1616-1801' - into a single chapter. S/he has continued the practice of combining short single-topic paragraphs into long multi-topic ones but has otherwise left the section on 'the survival thesis' (paragraphs 73-91)<sup>24</sup> virtually untouched. Apart from the removal of italics which I used to lend emphasis to certain words, the only changes I could detect were an insertion into and an excision from lines 2 and 3 of paragraph 74.<sup>25</sup> In the original report the first two sentences of paragraph 74 read as follows: 'Haebich's narrative on the south-west begins in 1900 and in my view is in some respects the epic story of Noongar survival that Green promised but never wrote. It is one of an intrepid group of people overcoming adversity and maintaining cultural connections in the spaces available to it'.

In the book version, the following words are added after the word 'promised': 'in his 1984 publication *Broken Spears: Aborigines and Europeans in the Southwest of Australia*'.<sup>26</sup> This insertion hardly seems necessary because in paragraph 54 of the report I write: He [Green] added that '[t]heir survival as an ethnic group in Australian society is an epic story in the Nation's history'. At the end of this passage I supply a footnote reference to: *Neville Green, Broken Spears: Aborigines and Europeans in the Southwest of Australia*, Perth, 1984, p.189.<sup>27</sup> My passage and reference are only eight pages back in the book so readers will be unlikely to have forgotten it. Repeating the book's full title seems to accord it a dubious importance which, to me, is ironical because the word 'intrepid' has been excised. I chose the word 'intrepid' carefully because all of my research indicated that the Noongar were and are a dauntless people, or a people undaunted in their cultural maintenance by intimidation and oppression. The changes I've referred to suggest to me that the 'editor' is less concerned with giving Noongar people due credit than with salvaging the reputation of Neville Green. Yet it was Green who indicated in a Preliminary Report for the State in 2003

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<sup>24</sup> See book pp.27-35.

<sup>25</sup> See book, p.28 lines 5-6.

<sup>26</sup> See book, p.28 line 5.

<sup>27</sup> See report, para 54 notes 100-101 and book p.21 line 13.

that the Perth Noongars of 1829 had become extinct and that metropolitan people who now identify as Noongar are imposters.<sup>28</sup>

In paragraph 74 of the original report at line 16, I write: 'Whereas Haebich locates these particulars in a larger picture, Green tries to represent them as the entire picture, thus to reinforce his claims about cultural extinction'. In the book, the words 'to reinforce' are changed to 'reinforcing'.<sup>29</sup> Replacing 'to reinforce' with the word 'reinforcing' changes the meaning of the sentence. The infinitive 'to reinforce' signifies an intention to reinforce while the participle 'reinforcing' signifies the achievement of that intention.

In paragraph 92 of the original report at line 2, I write: 'Before proceeding, I will consider relevant information from the field of pre-history, or prehistorical archaeology. This field is one of those noted above in which I have no special expertise'. The words 'of those noted above' have been excised from the book version.<sup>30</sup> In the original these words have a purpose. They serve to remind the reader of detailed introductory comments on my treatment of literature from other disciplines. Had the editor expended less effort in tampering with my report and more in correcting typographicals like the omission of the word 'of',<sup>31</sup> s/he might have done less damage.

To comment on all of the changes made to my original report by the producers of the book would make this paper very long and tedious. There are, however, three more insertions that deserve comment. The first relates to the excision of three tables and associated text. In paragraph 560 of the report, I write:

A sample of the [Aboriginal] corporations formed between 1973 and 2005 appears below. Because the information was supplied in two documents and organized differently in each, I have recorded it in three tables. The first lists Aboriginal Affairs Planning Authority Estate Reserves leased (for various periods) to Noongar organizations and individuals between 1973 and 2005. The second lists freehold land leased to Aboriginal organizations through the trust for the same period. The dating of information in the ALT documentation is unclear because some items are given a proclamation date and others an expiry date, but none have both. The third table lists Aboriginal Corporations in the south-west of Western Australia as at 4 January 2005.

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<sup>28</sup> See report paras 376-378 and Neville Green, 'Aboriginal Presence in Metropolitan Perth since 1829, *Preliminary History Report* by Neville Green filed on behalf of the State of Western Australia and Others', 5 March 2003, pp.181-182 and *passim*.

<sup>29</sup> See book p.29 line 5.

<sup>30</sup> See Book p.37 line 3.

<sup>31</sup> See report para 111 line 7 and book p.43 line 117.

I then insert the three tables and relevant documentation after which I write, in paragraph 561:

It may appear unusual in an expert report to include over 5 pages of tabulated information in the text before interpreting the information. My purpose in doing so is that the tables, taken together, illustrate the penultimate chapter of a history that began in 1829: the history of a people trying to retain or regain control of traditional lands in which they have never renounced their rights or interests.<sup>32</sup>

The tables and the foregoing text have been excised from the book version of my report and the following passage has been inserted:

The development of 'Aboriginal Affairs Planning Authority Estate Reserves' leased (for various periods to Aboriginal people, freehold land leased to Aboriginal organisations through the Aboriginal Affairs Planning Authority/Aboriginal Lands Trust and the rise of Aboriginal Corporations in the south-west of Western Australia illustrate the penultimate chapter of a history that began in 1829: the history of a people trying to regain control of traditional lands in which they have never renounced their rights or interests.<sup>33</sup>

Quite aside from the fact that nearly three pages of my report have been excised and replaced with the above passage, it is impossible to tell how the developments described 'illustrate the penultimate chapter' without the tabulated information. The excision of the tables is inexplicable. It cannot relate to the fact that they include the names of Noongar people who are now deceased because the sources used to compile the tables are listed in endnote 112 on page 229 of the book. The tables can also be read in copies of the original report available to the public through the library system. I take the view that the excisions are simply a case of poor or gratuitous editing.

Another insertion relates to paragraph 536 of the original report where I write:

In the late 1950s and 1960s, new reserves were created as part of a transitional housing scheme in which Noongars would be trained to live like Europeans. They would be moved from camping reserves through several types of dwellings until they graduated as suitable tenants for State housing. Budgetary constraints limited the programme but some Noongars who worked for the railways obtained WAGR housing while others able to find work rented privately. The majority, however, remained on camping reserves, most of

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<sup>32</sup> See report paras 560-561.

<sup>33</sup> See book p.225 lines 12-19.

which lacked basic facilities. In 1963, Allawah Grove accommodated 140 Noongars. In 1969, after six years of complaint by white neighbours and debate about closing the reserve, 31 Noongars remained although all services including sewerage had been disconnected.<sup>34</sup>

After the words, 'rented privately' in the book version, the following passage is inserted:

This plan did not run as it was designed. The *West Australian* newspaper reported on 17 May 1957 when [sic] a young man, Mr Kevin Ugle, appealed to the paper to help him secure accommodation for himself and family. He had applied to the Housing Commission for a house, but was refused because he did not have permanent employment on the railways. Ugle stated that he used to work at the railways but was paid off because he did not have citizenship rights. He subsequently told the council that his application for citizenship rights was rejected since he did not have a house. The majority of Noongars, however, ... [my narrative is resumed here].<sup>35</sup>

I object to this insertion because it is not properly contextualized; the second sentence is grammatically incorrect; a single example (Mr Ugle's plight) is not sufficient to demonstrate that a 'plan did not run as it was designed' to do; and these flaws will be attributed to me because the words appear to be mine.

The final insertion on which I'd like to comment occurs on pp.211-213 of the book:<sup>36</sup>

The 'caste classification' by Native Welfare officers was so arbitrary that coupled with an equally complex administration of the various Acts, administrators could decide if an Aboriginal person fell within the Acts by doing rudimentary maths calculations, or, simply guessing. Aboriginal people were simply ascribed castes such as 'near white' 'about ¾ abo', copper coloured' or 'by appearance [name] is a light hc [half caste] about 3/8 in colour. The Chief Commissioner would write to Noongar people to explain exactly what their caste was.

By 1955, Middleton's despair regarding this system was on record and relayed to the Minister for Native Welfare. He admitted with striking frankness the 'caste card' system which underpinned the administration of Aboriginal people of Western Australia was little more than 'guess work'. He said the policy approach of 'gradual transition' from 'native' to 'coloured citizen' over generations documented on these cards was an abject failure. He argued that such a policy instead resulted in:

The separation by legal direction of people of aboriginal origin from their own kith and kin; of the establishment and growth of a 'degree of caste' system which frequently depends

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<sup>34</sup> See report para 536.

<sup>35</sup> See book p.216 lines 29-38.

<sup>36</sup> See report paras 526 and 527. The space between them is where the passage has been inserted into the book version.

for its authenticity on hearsay evidence and a vast complex 'caste card' recording system at this Office and the results are sometimes tragic in their effect on the lives of hundreds of native people. Due to the effluxion of time and the blood mixing of generations, degrees of caste are now being expressed in vulgar fractions of 124ths; thus a native mother whose caste card show [sic] her to have a 124<sup>th</sup> preponderance of aboriginal blood in excess of the half-caste is ruled by the Commonwealth Social Services Department to be ineligible for all social service benefits other than child endowment and so on.

It has been proved beyond doubt that the records kept at this Office are inaccurate, and therefore can no longer be relied upon; in hundreds of cases, the Department relied for its information on the word or opinion of a station manager, a police officer or other person in circumstance [sic] which are manifestly merely a matter of guess work. Where paternity involved a white man, the record is even more unreliable than ever. Half-caste [name withheld] paid maintenance for years 'by consent' for a child who, it was subsequently learned, had been fathered by a superintendant of Moore River Native Settlement. Consequently the child's caste record had to be altered from half-caste to quarter caste, from native to non-native, from being a person without citizenship rights to one with equal status with whites! It has often been remarked by Officers of this Department that the accidental destruction of the cabinet containing the 'caste-cards' will be of untold benefit to hundreds of natives in this State since no means of determining fractional degrees of caste would then remain in existence and the Commonwealth and State Governments would not be faced with the insoluble problem of deciding the important question of 'when is a native not a native?' It has also been observed that a few more generations of 'caste-mixing' will require the employment of mathematicians in this office.

At the end of this lengthy passage, my narrative is resumed. The author of the insertion neither interprets the quotation nor explains its relevance to the Single Noongar Native Title Claim. I therefore object to the insertion because its purpose is unclear, and I have three further objections. The first, as in so many other instances, is that the words are not mine but will be attributed to me. The second is that the insertion adds nothing salient to my narrative. The third is that the insertion is worded in a way that lends legitimacy to the categories of 'caste' and 'blood' that I have repeatedly repudiated.<sup>37</sup> When the 'editor' mocks the notion that 'caste' and 'blood' can be determined by 'rudimentary maths calculations' or 'guesswork', s/he undermines my rejection of the terms by implying that the categories might be determined in other ways. As a consequence, in my opinion, s/he creates the impression that I am inconsistent in my overall argument, that my narrative is incoherent and that I lack intellectual rigour.

As I have indicated above, were I to detail every alteration to my report and to comment on every excision and insertion, this paper would be a tiresome litany of errors. I believe

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<sup>37</sup> See report pp.30-31, 299, 304,374,377.

that I've demonstrated the disregard shown by SWALSC and UWA Publishing for my moral rights more than adequately. I also believe that those organizations have turned my original report – one that was praised in the Federal Court of Australia – into an inferior document that hinders rather than assists Noongar people in the pursuit of their rights. In the process of doing so, I believe that they've damaged my reputation as a serious and rigorous historian. Australian intellectual property law seems very vague to me and on the basis of my experience, I would advise other researchers and writers to think very carefully about assigning copyright. Should they do so, they might find themselves in a situation like mine: without resources to take legal action against funded bodies with their own legal teams.