

Seeking truth in black and white

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Geoff Clark didn't want to go to the Criterion Hotel. Walking through Warrnambool's darkened town centre, the Aboriginal leader was headed to the nearby Caledonian when he received the call that would change everything. He should join people at the Criterion, he was told, because a band was playing.

All over town there was music and revelry. Thousands had poured onto Warrnambool's windswept racecourse during that first week of May 2002. It was "race week", and race was certainly on the agenda. Clark might say it is never far off it.

It had been a big day for Clark. The Aboriginal and Torres Strait Islander Commission chairman had been at the races. His barrister, Robert Richter, QC, would later say it was the first day in the carnival's history that Aborigines had been allowed into the members' area.

In a marquee, Clark mingled with ATSIC dignitaries and members of his community. A special race, the Alice Clark Handicap, was run in honour of his grandmother - a local elder. A proud Clark presented the trophy.

Just hours after this engineered moment of reconciliation, Warrnambool's most famous resident would be rushed to hospital with a face full of capsicum spray. He had become involved in a confrontation between Aboriginal patrons and six police officers at the Criterion Hotel. The stand-off had become ugly and finished as a panicky scrum.

This incident could soon cost Clark his \$235,000-a-year job. In August, the ATSIC chairman was suspended on full pay, and Indigenous Affairs Minister Amanda Vanstone is now considering whether to sack him. Last month, Clark lost a County Court appeal against his March conviction for obstructing police. A second conviction, for behaving in a riotous manner, was dismissed.

The confrontation continues. This week, the publican of the Criterion, John Palmer, permanently banned Clark from the hotel. Palmer said race played no part in the

ban: "I've played football and cricket and gone to school with Koori people. I haven't got an issue. At the end of the day, there are people who muck up, no matter what colour they are."

Under a "local licensing accord" introduced in Warrnambool in May, a patron banned by one hotel in the area can be banned by all for periods ranging from one month to life. The accord was introduced, in part, because Clark's case led to complaints that bannings had been arbitrary and unaccountable. Accord committee chairman Senior Sergeant Ian Armstrong says all those given full bans have been white.

But Clark's court case exposed a community with two tribes living in at-times uneasy coexistence. The Aboriginal population is based at Framlingham, 20 kilometres from town. Clark's defence was built on his belief that local publicans consider it bad for business to have a group of Aboriginal people walk in.

There is no shortage of effort from Warrnambool locals to address the issue of reconciliation; the ATSIC marquee at the races was just such an initiative.

Richter's claim, that Aboriginal people were excluded from the members' area, is denied by the racing club. Entry is restricted to members, the club says, but membership is open to all. It's just, it says, that Aboriginal people don't tend to be members. Whatever the reason, Clark's group were accustomed to drinking on the racecourse in a separate area, known to them as "the blacks' shed".

The stories in court divided partly along racial lines, too. Clark and his witnesses all toed the same line; the police and the publican did likewise.

Judge Bill White said Clark had been "evasive at times" and not always honest with his description of the night's events. But White also found a concerning uniformity among the recollections of the six officers who attended that night, and a troubling discrepancy between their testimony and that of patrons and bar staff.

Like the prize-fighter he once was, Clark made a late claim for a points victory after his appeal. "We think that we have exposed a weeping sore in this country - one of racism," he said. "I think it has to be confronted and I'm proud to have been a part of confronting it." The court heard that, when Clark's group arrived at the Criterion dressed in their racing finery, they had already been thrown out of the nearby Grand Hotel. A magistrate would later rule that police acted illegally to enforce a racist request from former Grand publican Bernie Bushell that the group be ejected, in contravention of the racial discrimination act.

Police said they emptied and closed the Grand after Clark stood his ground and yelled, "I'm not leaving until these white c--ts leave".

Clark's group spilled from the Grand in various directions. Soon after, police received a call from Palmer at the Criterion. Palmer said he requested that they remove Jamie "Boss" Chatfield, who was barred from the hotel for previous misbehaviour.

Chatfield was no friend of Clark's, the ATSIC leader would later tell the court, but this was a special night for his people and Clark felt he had a duty to intervene. "It's

the business of me if Aboriginal people think they are being treated unfairly,” he said.

In front of the hotel’s sweeping horseshoe bar, Clark tried to intercede, offering to look after Chatfield and telling Palmer, “If you tell him why he’s barred, he’ll probably go”. From the walls, faded photographs of sporting stars looked on, among them footballer Gary Ablett and boxer Jeff Fenech.

Toe-to-toe in the crowded bar, Palmer refused to explain the ban to Clark. He wanted Chatfield out. Palmer said Clark told him: “Call the police. There’s 25 of us here; we’ll cause a riot.”

The police arrived quickly and in numbers, but Richter would later draw an uncomfortable admission from the publican: police had been called before Chatfield or Clark even arrived. Palmer says he’d been warned Chatfield had caused trouble at the Grand and might be on the way.

But Senior Constable Robert McKellar, who took the call at 11.45pm, wrote in his logbook that Palmer had complained about a group of drunken Aborigines he did not want to serve.

Sergeant Peter Nichols is the officer Clark was later found guilty of “obstructing”. He arrived first and made for Chatfield. Clark was close by. Nichols said Clark accused him of being “racist and discriminatory” and began to point aggressively at his face.

He said Clark became threatening and was “geeing up” members of the group to block the doors. Surrounded and outnumbered, the sergeant was fearful. “I believed that we were trapped in the hotel at that stage,” he later said.

A white patron, Travis Lynch, said Clark pushed him and yelled: “F--k off, you white c--t.” Though dwarfed by Clark, Lynch said he replied: “You’re supposed to be a leader of your people, but I think you’re a disgrace.”

Lynch then saw Clark’s group form a line in front of the door. He and others heard Clark say “we won’t be moved”. Sergeant Thomas Revell arrived as insults were being hurled at police by members of Clark’s group. Things were ready to explode.

A burly veteran with swept-back hair, Revell pushed through the group, trying to reach the younger Nichols. Somebody shoved and Revell went down.

The place erupted, and the stinging mist of capsicum spray sent patrons running.

Back at the station, the frazzled officers conducted a “hot debriefing”, sharing their recollections of the incident. (Richter later argued they were colluding and constructing their potential evidence.) The next thing the police did was call the police media office in Melbourne.

The denouement, when it came, was unsatisfying for all. Judge White found Clark committed a minor obstruction by not allowing Nichols to remove Chatfield. Other police accusations, that Clark threatened and blocked Nichols and other officers, were not proved, he said.

For the police, this was a public order situation that quickly became a public relations nightmare. For Clark, it was always about race.

The judge saw it differently. "Racism is a cancer in the community, but I do not find this was racist behaviour (by police)," he said. "Rather, it arose out of (Clark's) misguided sense of responsibility for another."