

**GENETICALLY MODIFIED CANOLA — MARSH-BAXTER CASE —  
DEPARTMENT OF AGRICULTURE AND FOOD REPORT**

*Statement*

**HON JIM CHOWN (Agricultural)** [10.14 pm]: I feel compelled to respond to Hon Diane Evers' member's statement of Thursday, 29 March, especially when she mentioned my name eight times in an address of just over six minutes. I will endeavour to clarify on a point-by-point basis some of the matters she felt compelled to raise in her address. I note that she claimed in one of her statements that in my previous members' statements some of the claims that I made were outrageous and preposterous. I note also that the honourable member, in making this statement, did not take the opportunity to refute any of the statements from my two addresses. Of course, this is not unexpected as the statements I made were backed up by independent sources such as reports, photographs and documents. The member states —

This is a matter that has gone through the courts and it is ridiculous that he is raising the things he is suggesting now.

Meaning me. The member further states —

Hon Jim Chown was wondering about the reason for this Standing Committee on Environment and Public Affairs inquiry. It has nothing to do with the previous case.

Let me remind the member that in her submission to the Standing Committee on Environment and Public Affairs, she herself introduces the Marsh v Baxter case as a reason for the committee to investigate some form of compensation or legal trigger for such. I quote from the submission from the member herself. It states —

The recent court case involving Kojonup canola farmers Steve and Sue Marsh, who lost organic certification for 70% of their land after dry windrowed GM canola from their neighbour's property was blown onto their farm, demonstrates the need for a legal compensation measure to be introduced in WA for farmers who experience economic loss as a result of contamination.

In light of this revelation that the member has obviously forgotten, I feel more than justified—not that I needed any justification—in addressing the issues that I brought to this house. In fact, as a member of this place I believe one of our critical duties is to shine a light into those dark little crevices where lies scurry to after they have done their damage with public utterances. As members are aware, we are almost compelled to do that. When a member makes statements that are contradictory, I often wonder, and on occasions one would have to think, that that member is being either hypocritical or is somewhat confused in what they are trying to achieve.

On the previous case, the member also states —

The case was a big waste of plenty of resources. It went on for a long time and it did not resolve anything.

The case resolved the matter and was predicated under common law under the basis of negligence and private nuisance. For private nuisance, His Honour assessed that it had not been shown that there had been any unreasonable interference by Mr Baxter in the Marshes' use and enjoyment of Eagle Rest. His Honour also rejected the Marshes' cause of action in common law negligence, being a breach of the asserted duty of reasonable care. Mr Baxter had not been shown to have acted negligently, either by growing or then by swathing the lawfully grown genetically modified canola crop in 2010. In regard to a waste of resources, I am reliably informed that Justice Kenneth Martin attributed costs to the plaintiff, Marsh, and that those costs came to well over \$250 000, of which to date not one cent has been paid. I also quote Hon Diane Evers stating —

Why fight now with those words, to try to get us all emotional about an issue that is about science?

Firstly, it was not emotional at all; I was just stating facts. I would also like to inform the member that my address was not emotional and I agree with her that this is an issue about science and is an issue about a scientifically based form of food production. I am happy that the member agrees with me about this matter, because this is the first time I have heard her acknowledge the irrefutable scientific facts regarding GM crops and, by association, the incredibly stringent processes involved to ensure that these crops are perfectly safe, for both production and human consumption.

In regard to the Standing Committee on Environment and Public Affairs "Inquiry into mechanisms for compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material", I will close with a quote made by Mr Michael Baxter on ABC news, immediately after the Supreme Court appeal of the Marshes was dismissed. It states —

"This should never have even gone to court because between farmers, we should've just had a chat over the fence, had a couple of beers, you know, this would've been all sorted out.

“He’s an organic farmer, he can’t spray, he can’t use chemicals, you know he’s got red mite, he’s got aphids, he’s got rust, he’s got all the diseases in the world, does he worry about that?

“They blow over the fence, I get them all the time.

“Do I whinge, do I complain? No, not at all.”

That is the reality in the Agricultural Region for all sorts of farming. Most of these issues are resolved across the fence or in a talk over the back of a ute.