

## MEMBERS' STATEMENTS

### *Portman Mining, Native Title Claims*

**HON JOHN FISCHER** (Mining and Pastoral) [5.30 pm]: I have spoken in this House previously about my concerns regarding the hold-up of mining projects around Western Australia and the unscrupulous actions used to deter some projects. I have specifically spoken on Portman Mining in the Windarling Ranges and I will highlight the vexatious claims to undermine these projects.

I have in my possession a copy of an affidavit lodged in the Supreme Court of Western Australia by the legal firm Slater and Gordon on behalf of Albert Corunna. I find it interesting that in the sworn document, Albert claimed to be an elder of the Nyoongar people and a member of the metropolitan Aboriginal Justice Council and the Metropolitan Council of Nyoongar Elders. He further establishes his Nyoongar heritage by stressing that his great-grandmother was the sister of Yagan. I am prepared to believe that he is telling the truth in this document. However, I want to know, given his stated background, what claim he could have to know anything about land in the Windarling Ranges or the Mt Jackson area. Clearly, his claim is spurious and is aimed at causing maximum delay, cost and frustration for Portman Mining as it seeks to access the new ore bodies that are essential for its survival. This document was sent to me from an Aboriginal source, so Albert Corunna's past is well known. It is most unlikely that Mr Robert Parker, an anthropologist I have mentioned before, would have been unaware of Albert's background when he helped him to lodge the section 9 and 10 claims. I believe that Hon Robin Chapple has also put in a submission to the Peter Quinlan inquiry being conducted on behalf of Dr Kemp, the federal minister. It is becoming more apparent every day how deeply and dishonestly the Greens are involved in this totally unjustified campaign against Portman Mining.

An example of the lengths they will go to is the Greens' continual attack on another Portman project on Cockatoo Island, where erroneous claims abound that the activity is causing turbidity in the sea. The ridiculousness of the claim can be realised when considering that a short distance away, the mighty Fitzroy River joins the ocean: when the river runs, it creates a plume of extreme turbidity that extends for 100 miles up the coast. Federal Minister Kemp's adviser has told my staff that the minister is determined to do everything by the book. He does not want his decision to be vulnerable to a legal challenge. The minister and the Greens know how vulnerable the project is to delay. The minister's position could be considered laudable if only it were based in reality. It is extremely unlikely that anyone would challenge the minister's decision. Why should they, when it would be simpler and easier to have someone lodge a section 10 claim? I would not be surprised that as soon as this present claim is resolved, another of Robert Parker's mates will hit the company with another claim.

Under this crazy Act, this obstruction could go on virtually forever. The federal Government has had three terms to change the legislation. It says it will bring in amendments next year, but I believe that is unlikely given the present calamitous situation in the Labor Party and the perfidy of the Greens and the Democrats. Therefore, the Government will not get any worthwhile amendments up, and, in fact, it could end up with amendments that make the situation worse. The federal Government should highlight the unworkable nature of the Act and its enormous cost to the economy and employment. If the federal Government cannot get the media to understand the magnitude of the problem, it should use paid advertisements. That is often done for less important issues. Dr Kemp can go on forever referring every claim to a new report. When Portman Mining is forced to give up, the minister will doubtless say that it was not his fault as his hands were tied. The lawyers will no doubt love him but workers and the communities of Southern Cross and Esperance are unlikely to share this view.

Frankly, a lot of the blame for the hold-up in the project should be sheeted home to the State Government. The spurious environmental claims put forward by the state bureaucracy under the Environmental Protection Authority, and strongly supported by the Greens in particular, are a case in point.

Hon Jim Scott: Which spurious information is that?

Hon JOHN FISCHER: It is the claims supported by the Greens when the EPA put in an adverse comment about Windarling and Mt Jackson.

I read some propaganda in which the State Government congratulated itself on rural development and said that the way forward with native title and heritage issues was to amalgamate claims and then negotiate settlements. The Government would no doubt claim the so-called success on the Burrup Peninsula, where it paid out megabucks of taxpayers' money to claimants who had no vestige of a genuine claim. The State Government needs to radically overhaul the Aboriginal Heritage Act and bring in strong penalties for vexatious claims.

Hon Ken Travers: I remember your being in bed with the Greens on stopping development on the Burrup.

Hon JOHN FISCHER: That has nothing to do with what I am talking about. That is typical of the Labor Party; the member would not have a bloody clue about what I am talking about! All the claims on the Burrup were

paid out. What I was saying about the Burrup, if the member cleans out his ears, was that Maitland was a better place for the development to go. If the Government had been truthful, and not been under cover all the time, it would have let everybody else know what it was doing, including the Shire of Roebourne. The State Government needs to work with the Commonwealth to fix this mess. Realistically, it is unlikely to happen because the Greens will not allow it and the Government needs the Greens to get its nanny state, perverse social engineering agenda through. In the meantime, areas of my electorate bear the brunt of this lack of action. Frankly, this Government will be out of power before the cities wake up to their oncoming demise.

Hon Jim Scott: Don't worry; he'll get his kickbacks next year.

Hon JOHN FISCHER: The member can go on about kickbacks and all that if he wants to have a crack at people on my staff.

Hon Ken Travers: He didn't deny it.

Hon JOHN FISCHER: Of course I did not - why should I deny it? I think the member is only jealous because of the lack of performance on his side of the House. This Government has been pathetic in the way it has put out mistruths about how it would handle native title and clean up tenement issues in the mining industry. The Government has failed on every count. The member sits there in total ignorance about what is happening outside the metropolitan area.

Hon Kim Chance: It is the best business investment ever.

Hon Ken Travers: There's a lot in the mining industry. You're a joke.

The PRESIDENT: Order! The parliamentary secretary will come to order.

Hon JOHN FISCHER: Unfortunately, the joke is on this State. It is only people opposite who are laughing about it. Let us go see the payouts on the Burrup and what the Government has there. Let us see how much of this professed development gets up and running because the way this Government is going, there will be absolutely nothing. Have a look at the rural areas of this State -

Hon Kim Chance: You are dreaming.

Hon JOHN FISCHER: I am not dreaming. See what will happen on 11 February. See what happened at the last local government meeting when the chief executive officer of the Town of Port Hedland told the Minister for Local Government that unless it gets more money, it will hand back the shires -

Hon Kim Chance: How is that a problem for the State Government? What can the State Government do to bring about the Town of Port Hedland's problem?

Hon JOHN FISCHER: That is absolute rubbish. If the minister does not see that as a problem for the State Government, then that is totally indicative of why this State is heading into such a hole at the moment under this Government's direction. Does the minister not see it as a problem that local governments can no longer sustain themselves in the engine room of this State?

#### *Business of the House*

**HON KIM CHANCE** (Agricultural - Leader of the House) [5.42 pm]: We have made some very good progress on legislation this year. There are still a number of Bills that we would all like to see legislated and we have the opportunity to clear some of those up tomorrow and on Tuesday at least. I think the sessional orders are working extremely well and members need to have trust, which is partly why they are working well, that we will be able to adhere to our time lines, particularly when our last sitting day is on Friday next week.

In order to get through that legislation, the Leader of the Opposition and I have discussed the possibility of sitting through on orders of the day tomorrow afternoon rather than going through our normal sessional order process. The Leader of the Opposition made that offer to me and it is a very generous offer. I am happy to accept that, but, obviously, I want the members of all parties to be aware of that arrangement so that they do not waste time, for example, getting speeches ready for tomorrow afternoon. I thank members for their support. I anticipate their support because I am sure that they will understand why this is necessary.

#### *Police Checks for Teachers*

**HON ALAN CADBY** (North Metropolitan) [5.44 pm]: I was pleased to read the media statement made by the Minister for Education and Training, Alan Carpenter, yesterday. In his media statement, he said that all teaching staff in government schools and in TAFE will have to undergo a criminal record check within the next two years. I find that statement interesting because in this House currently we are dealing with the Western Australian College of Teaching Bill. In our briefings, the Liberal Party stated that it was concerned that teachers who are currently teaching will be automatically registered as teachers, whereas those who are entering the profession for the first time will have to go through some criminal record checking before they are registered. Hon Barbara Scott pointed out that in Queensland the decision was made that this criminal or police check would be done on

all teachers within all schools. I point out to the minister that he is the Minister for Education. He is not the minister for government schools. He has a responsibility to ensure the safety of all children in all schools in Western Australia. Therefore, I call on the minister to make an amendment to the Western Australian College of Teaching Bill, which will provide the process by which all teachers, prior to registration, will have a criminal check. If it is good enough for government schools, it is good enough for all schools within Western Australia. In reality, I do not think that in the teaching profession we have any great numbers of people who should not be teaching, but there may be one or two. If a child were taught by that person, the child's parent would be disturbed. In my 33 years of teaching, I have worked at three schools in which a teacher has had an inappropriate relationship with a student. That should not occur. However, it will occur, and we have to make sure that we minimise that opportunity. In reality, there are fewer people in the teaching profession with a criminal record than in most other professions. I do not think it is a great problem. However, if a child is affected by the one or two teachers out of the 38 000 teachers in our schools, that is a serious issue. Therefore, we should go through the process of checking all teachers, to protect not only the students but also the teachers themselves.

Hon Kim Chance: Would that not be seen by the private education sector as an imposition? It is the employer of the teacher.

Hon ALAN CADBY: The Western Australian College of Teaching Bill is already an imposition. All it needs is an amendment that says that teachers will have to be registered -

Hon Kim Chance: It deals with the Government as an employer of teachers. What you're suggesting is that we would be applying those standards to other employers in the educational business, and that would seem to be an imposition.

The PRESIDENT: Order, the Leader of the House will come to order; otherwise, he will hear a repeat of the minister's second reading speech, which appears to be contrary to what the leader was advocating.

Hon ALAN CADBY: With due respect to the Leader of the House, I do not think he has read the Bill and he probably does not have intimate knowledge of the college of teaching Bill. I am not blaming him for that because it is not his area of responsibility. However, the sort of things he has said are already in there anyway. It will make no difference. The college of teaching Bill refers to all schools. If all new teachers have to have that criminal check to be registered as a teacher -

Hon Kim Chance: That is a new teacher.

Hon ALAN CADBY: Yes, it is not a big step to say that all teachers who are currently teaching should also have that criminal check. It is not a great leap forward and I do not think it would be seen as an imposition on independent schools, particularly after reading the statement made today by the minister. I do not know whether the statement in *The West Australian* today that the minister is reported to have said is correct. He was reported to have said that most incidents occur in the private sector. I do not know whether that is true, but, if it is true, and he did say that, that is even more reason to include private schools or non-government schools in the same process that all government teachers will now have to go through. Surely the safety of our children is of paramount importance. He has to put away his ideology, his hatred of independent schools, his hatred of choice for the safety of our children -

Hon Kim Chance: Who hates independent schools?

Hon ALAN CADBY: Come on.

The PRESIDENT: Order, members! The member will address the Chair, not the Leader of the House who does not have the call.

Hon ALAN CADBY: And he does not have a great knowledge of the education system I might add.

I call on the minister within the next week to bring forward an amendment that will mean that all teachers, no matter what school they teach in, must go through a criminal check process before they can be registered. It cannot happen overnight but it can happen over two years. The cost is \$33 and I am sure that teachers would be prepared to pay that money. My son has paid it twice. He paid it once when he went over to the United Kingdom to teach - he had to get a clearance from the federal police - and once when he decided to do some relief teaching while he was getting his small business operating. He has paid that money and he has been cleared. If my son is prepared to spend the \$33 as an unemployed teacher, then I am sure that most teachers in the private school system would be more than happy to part with \$33 to have that check for their own safety and security and that of the children.

It is up to the minister to think about the safety of all children, to take his responsibility seriously as the Minister for Education and Training for all students in this State and to ensure that the College of Teaching Bill is amended to enable all teachers to be registered.

*Remarks by Member for Riverton*

**HON SIMON O'BRIEN** (South Metropolitan) [5.50 pm]: Today the chief editor of the *Community News* in my region contacted me to advise that the member for Riverton had been in his ear providing details about a debate that had occurred in another place in which certain criticisms had been raised about me. I am happy for the member for Riverton to raise criticisms about me, and I will return the compliment from time to time, and that is something we both understand and accept. When the chief editor acquainted me with the nature of these criticisms, he said that these comments needed some sort of response. I looked at the comments and said, "You're darn tootin' they need some sort of response", and that is what I want to do now.

Firstly, I relate a letter that I wrote to the member for Riverton on 10 March 2003 -

Dear Tony

You recently distributed a flyer which attributes remarks to me taken completely out of context. You have also misquoted me on a number of occasions, most recently I think on Thursday 27<sup>th</sup> February 2003 when addressing the Legislative Assembly.

I am sure that you would not wish to use a selective quote that was misleading. For that reason I am writing to you to acquaint you with the context of my remarks, given at a public rally at Bibra Lake in February 2001.

I was invited to attend the rally by Joe Branko, a resident of North Lake with whom you are acquainted. The purpose of the rally was to oppose the building of Roe Highway Stage 8. In the limited time available to me I was not able to get any detailed information from Main Roads beyond that there was no funding in forward estimates for Stage 8 and detailed planning had not commenced. Therefore at that stage I did not have sufficient information to form an opinion as to whether Stage 8 was required at all and I said so. It is quite incorrect to give the impression that I am on the record as opposing Stage 8 on this basis.

The second quote being misused is "I have great difficulty reconciling a six lane superhighway going through that area, baring in mind the environmental situation". What you should be aware of, and evidently are not, is that my remark followed that of the rally organiser Joe Branko, who described Stage 8 as "a 110 metre (or it might have been 130 metre) wide wall of concrete obliterating everything in it's path so that not a single living thing will remain". I can tell you that if that were what is proposed, then my remark stands.

I have subsequently obtained access to draft plans for what was intended by government planners, which relies for a road reserve on what is largely cleared land used as a utilities easement together with a total of four lanes on two narrow box culvert bridges or a similar low bridge structure, passing North Lake where the current western end of Hope Road already exists - a quite different prospect from the nightmare scenario alleged at the rally.

I was approached by Mr McRae after he received that letter. He thanked me for setting him straight and said that he would not wilfully or misleadingly quote me out of context or quote me incorrectly. We shook hands and I was very happy about the outcome - all done privately, as these things sometime should be. I was therefore disappointed when the editor of the newspaper acquainted me with the comments attributed to Mr McRae, which were to this effect -

Indeed, Hon Simon O'Brien came to this realisation some time ago in the lead-up to the 2001 election, when he was one of the braver members of the Liberal Party at a very large rally at the Beeliar regional wetlands that was attended by more than 2 000 people. The event was covered extensively by television, radio and newspapers. It was reported extensively through the public media in this State.

I mention that part of Mr McRae's remarks, because I am hardly likely to say that when there were so many witnesses to the contrary. Mr McRae then went on with the remarks that I now find offensive, and they are -

I will paraphrase what he said because I do not have his words in front of me, but Hon Simon O'Brien said that he could not imagine any circumstances under which putting a major highway through that wetland could be acceptable.

For the record, I absolutely reject the allegation that I said that I could not imagine any circumstances under which putting a major highway through that wetland could be acceptable; nor did I say anything that was similar or could have been construed to mean that. Indeed, I recall that on that day I was jeered by a section of the protesters for not giving such a view on the spot. I think that caused considerable enjoyment to Hon Jim Scott at the time. I now find myself in a position to correct the member for Riverton's misapprehension, and I also raise the question that if Mr Tony McRae is absolutely wrong about this - and he is - what else is he wrong about? We will debate the aspects relating to this amendment of the metropolitan region scheme in subsequent sitting

days, but to wrap up this matter I will mention the views I do hold about this question so that I am not misquoted publicly in telephone calls to editors of newspapers or words said in another place or by any other mechanism.

Hon Jim Scott interjected.

Hon SIMON O'BRIEN: I did not address federal funding. At that time there was nothing by way of -

Hon Jim Scott: You answered a question about funding for that section.

Hon SIMON O'BRIEN: I do not recall. The only research I was able to do - Hon Murray Criddle was the relevant minister at the time - was to find out what was going on about this issue. All I could find out was that no money was allocated in the forward estimates and no detailed planning had been done. This was right at the commencement.

I am running out of time, but I want to conclude with this: it is absolutely clear that the Fremantle eastern bypass stage 8 road reserves need to be retained until a proven alternative is implemented, yet at this time the Government wants to delete the reserves without putting forward any credible - let alone proved - alternative. What is clear from the Fremantle eastern bypass fiasco is that the alternatives touted by the Gallop Government's Tony McRae are a dangerous nonsense that will result in a massive amount of extra road trauma, as reported to the WAPC by its transport committee and tabled in this House in its report on 19 November. The report even applied a dollar figure to the amount of extra road mayhem that would occur if the Fremantle eastern bypass and stage 8 were not to proceed, and that figure is given at \$20.4 million extra. The human cost of \$20 million worth of road crashes is something the Government refuses to contemplate; it is prepared to turn a blind eye to people suffering death, bereavement, injury or trauma; therefore, falsely attributing views to me is the least of its sins. However, it is now clear that Roe Highway stage 8 must proceed, and like any road it must be built in a way that minimises impact on the environment. The use of box culverts would probably result in less road kill than currently occurs on Hope and Farrington Roads, for example, but the bottom line is that in order to preserve the safety and amenity of the environment of many thousands of people living south of the river and a thousand more motorists and truckies transiting the area, Roe Highway has to be completed.

I remind the member for Riverton that when I raise a matter with him privately and in a respectable fashion, and apparently resolve it with him, I do not expect him to go out making allegations that are untrue in any of the forums that are available to him. If he wants to check the facts with me, he is welcome to do so at any time. I challenge him to do that: I challenge him to deal in facts and not in the sort of rhetoric that he is pushing on behalf of the Gallop Government. He needs to understand that he is there to serve a part of the community called the Riverton electorate and he is not serving it by his actions in this regard.

Hon Ken Travers: The Fremantle eastern bypass will have no impact on that community, and you know it.

Hon SIMON O'BRIEN: We will have that debate very soon, when the ignorance of the parliamentary secretary responsible for this amendment can be put on display. The parliamentary secretary representing the Minister for Planning and Infrastructure can then display his ignorance for the whole House.

Hon Ken Travers: You have not moved the disallowance motion yet, so how can we have the debate?

Hon SIMON O'BRIEN: I will do so.

*High Quality Oil Mallee Seed*

**HON JIM SCOTT** (South Metropolitan) [6.01 pm]: I am not rising to address the issue of the Roe Highway or the misinformed remarks of Hon John Fischer. I will raise some concerns I have been having about answers, or perhaps I should say non-answers, to questions I have been asking about mallee oil seed stored at the Manjimup Seed Centre. Members may or may not recall a question I asked on Tuesday, 2 December. I put the question originally to the Minister for the Environment but, unbeknownst to me, my staff found out that it had been changed to the Minister for Agriculture. The question read -

I refer to the high oil quality mallee seed held at the Manjimup seed centre.

- (1) Who owns the seed and on what basis do they own the rights to the seed?
- (2) Has the Department of Conservation and Land Management entered into any contract for the supply or sale of the seed?
- (3) If yes to (2) -
  - (a) is this an exclusive contract; and
  - (b) with whom was the contract entered into?

The answer began -

- (1) The high oil quality mallee seed at Manjimup seed orchard was provided to the Forest Products Commission - I can answer that part of the question - for storage by the Department of Conservation and Land Management.

The seed belonged to CALM, and the subsequent parts of the answer referred to CALM, so one would have thought that the minister representing the Minister for the Environment was precisely the right person to answer that question. I was able to get only the first part answered, and I am beginning to work out why there is a reluctance to answer the question. The Minister for Agriculture told me what I was trying to establish in that question - who owned the seed - but he was unable to answer the second part of the question about contracts. The next day I asked another question on the same issue. This time it was put to the Minister for Agriculture because of the way in which the previous question had been handled, but the answer came from the minister representing the Minister for the Environment. There had been a change of thought about who was supposed to be answering the questions. The question reads -

- (1) What quantity of high quality oil mallee seed -  
(a) has been collected, and  
(b) is available to be harvested?
- (2) Have both the Oil Mallee Co of Australia Ltd and Forrest Nursery Pty Ltd placed orders for high quality oil mallee seed; and, if so, with whom?
- (3) When did each of those companies place their orders?
- (4) Have they been supplied with seed; and, if so, when?

I wanted to go on from establishing how much seed there was to find out if these two companies had placed orders, and when. The first question, about how much seed was available, was not answered; the minister said -

- (1)(a)-(b) The answer to this question cannot be provided in the time available. I therefore request the honourable member to put this part of the question on notice.

I have a draft document that was put out some time ago by CALM that says how much seed the department is supposed to have at this point. It gave a figure of 120.7 million viable seeds. I would like members to remember that figure, because I will be talking about somebody wanting 12 million of those seeds. If they reached that figure, one would expect they would be somewhere in the ballpark. Even though he obviously had the data, the minister said there was not enough time to provide the answer. The minister went on to say, in answer to the second part of the question -

- (2)-(4) The Department of Conservation and Land Management has received approaches from commercial interests and from the Oil Mallee Association of Western Australia, which has traditionally purchased all available mallee seed, seeking to purchase a greater amount of seed than is available. CALM is taking legal advice on the equitable supply of seed and will act in accordance with that advice when it is received.

It is interesting that the minister did not mention when these orders were placed, which is information I asked for very explicitly. I asked because one of the companies mentioned, Forrest Nursery Pty Ltd, applied for that seed in January of this year. I will quote from a letter from Forrest Nursery to the Forest Products Commission -

In January 2003 I contacted Mark Dalton, from the Manjimup Seed Centre seeking to purchase a quantity of high oil seed from several species. Mark Dalton informed me that he needed to gain the approval of John Bartle from the Department of CALM before he could release any high oil seed. John Bartle contacted me by phone to inform me that he was in the process of developing an agreement between CALM and the Oil Mallee Company Ltd regarding the ownership of the seed supplies, that the agreement was at least several months away from formalisation and that I would need to gain permission of the Oil Mallee Company Ltd before he could release any of the seed in store.

This seems quite extraordinary. In the answers to questions I had asked in the previous two days this was not mentioned. Today I asked another question -

Did the Forrest Nursery Pty Ltd place an order to purchase 12 million high oil content mallee seeds in January 2003?

The minister could not tell me that today. Instead of giving a direct answer, he said -

The information sought by the member may or may not affect the commercial interests of the parties named.

The minister could surely say when the order was placed. I do not quite see how that could affect the commercial interests in an unfair way. The answer continued -

CALM has advised that legal advice should be sought before the requested information is provided.

The last two parts of the question read -

- (3) Is it correct that Mr John Bartle of the Department of Conservation and Land Management must give his approval before the Manjimup Seed Centre can provide Forrest Nursery with seeds?
- (4) Given that the Forrest Nursery order was placed in January this year and that there must be an immediate start to their seedling program if they are to plant oil mallee next year, why has it taken CALM so long to provide the oil mallee seed?

The answer to those two parts was -

CALM will be conducting an investigation into matters raised by the member. The issue of seed supply is the subject of legal advice being sought by CALM. CALM will resolve this matter when the legal advice is to hand.

CALM has been trying to get legal advice for almost the past 12 months. Who on earth is the department using - somebody on the other side of the moon? The department has taken nearly 12 months to find out if it can give seed to a company that needs it before the end of this year in order to supply farmers in this State with seedlings to plant on their properties as an important part of the fight against salinity in this State, which we all regard as a very important or even critical issue. This is absolutely astounding. I will be asking further questions tomorrow that deal with vested interests certain people, including former and current members of Parliament, have in the Oil Mallee Company, which seems to be the beneficiary of an agreement that will enable it to decide who gets oil mallee seeds in the future, and whether or not other companies will be able to provide seeds to farmers. This seems to be very strange indeed. It is small wonder that the minister's office and the CALM office are jumping around in answering this question. I hope that, by tomorrow, we can get a straight answer on the question I have aired, which raises very serious issues that severely impact on Forrest Nursery.

*House adjourned at 6.10 pm*

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