

[Legislative Assembly of Western Australia Hansard for 13/09/2005](#)

Legislative Assembly

Tuesday, 13 September 2005

Re Alcoa Australia

DR J.M. WOOLLARD (Alfred Cove) [3.44 pm]: I was pleased to see this bill put on the table. I have a personal interest in this bill, as members will hear in the next few minutes. I listened very carefully to the member for Nedlands, who always does her homework, although I do not necessarily agree with all her statements. I look forward to the Attorney General's response to some of her questions when we move into consideration in detail stage.

The main area that I am interested in is corporations. I have been approached by many community groups who feel that, under the current climate, members and volunteers of those groups are being gagged by large corporations. I cannot cite their instances. This issue is very dear to me, because I received a letter, as a member of Parliament, from a corporation; namely, Alcoa World Alumina Australia. It reads -

Dear Dr Woollard

MELVILLE TIMES COMMUNITY ARTICLE

It has come to my attention that the 5 July 2005 edition of the Melville Times Community published an article entitled, "Alcoa refinery decision slammed as irresponsible."

This article reports that you said, "Dr Edwards had ignored the fact that the liquor burner was shut down in 2002 because staff and ex-workers were experiencing chronic and acute health problems."

The statement attributed to you is false and defamatory.

It is an uncontrovertible fact that Alcoa voluntarily turned off its Kwinana liquor burner in 2002 even though extensive independent analysis of air quality had shown that workplace emissions from the facility were at least 100 times better than standards required for occupational health. The voluntary closure was decided upon because unsubstantiated and inaccurate claims about cancer impacts were causing public alarm and Alcoa places great importance on ensuring local communities

have confidence in our operations.

I will refer to some newspaper articles. Concerns were raised. I have been assisting the Alumina Widows and Workers Action Group. One of its members, who is also one of my constituents, approached me in 2002. Her husband, who had worked for Alcoa for, I think, 20 years, had died of cancer. When he was undergoing his treatment she met other people who had worked for Alcoa and who were undergoing similar treatment. They compiled a list, which they made public. In the past three years, the group has put together a register of 60 people who have worked at Alcoa and have contracted cancer. Twenty of those people have since died. The group has submitted petitions to the upper house asking that before Alcoa is allowed to recommission the liquor burner, a thorough investigation is undertaken of the effect of the liquor burner on the people who work at Alcoa.

It is interesting to look at some of the headlines in the newspapers over the past few years. An article in The West Australian of November 2001 is headed "*Probe into Wagerup health fears*". Another article in The West Australian of November 2001 is headed "*Alcoa admits health link*" -

Mr A.D. McRae: Is it the truth or are you quoting from The West Australian?

Dr J.M. WOOLLARD: I am giving the member for Riverton some facts. I am not sure why the member is jumping in to defend Alcoa. This large group of people wanted a proper medical survey to be conducted. Twenty of these people have since died. These people had loved ones and families who were dependent upon them. This group was urging the government to hold off on recommissioning the liquor burner until a proper investigation had been conducted.

I am outlining the concerns at the Alcoa refineries. An article in The West Australian of December 2001 is headed "Experts stumped by a cocktail of chemicals". An article in the Sound Telegraph of December 2001 is headed "Refinery agrees to medical tests". An article in The West Australian of December 2001 by Michael Southwell and headed "Alcoa action sought" states -

Liberal MLA John Bradshaw has called on the State Government to force aluminium giant Alcoa to shut pollution-producing liquor-burning plants at its Kwinana and Wagerup refineries.

An article in The Weekend Australian of December 2001 is headed "Alcoa refinery breaches health code, says union". An article in the Sunday Times of December 2001 is headed "Report blames refinery for illnesses". An article in the Sound Telegraph of December 2001 is headed "Man takes on Alcoa" and states -

Former Alcoa Kwinana refinery foreman David Thompson has been fighting for a

disability payment to avoid losing his house after illness put him out of work in 1998.

An article in the Coastal Districts Times of December 2001 is headed “Alcoa committed to act on health issues”. An article in The West Australian of February 2002 is headed “Legal doubt on Alcoa breaches”. An article in The West Australian of March 2002 is headed “We will look after sick: Alcoa” and states -

Alcoa has admitted it has not done enough to help employees who claim to have contracted serious illnesses while working at its Wagerup refinery.

Another article in The West Australian of March 2002 by Michael Southwell and headed “Alcoa warned by consultants” states-

Environmental consultants told Alcoa four years ago that toxic and cancer-causing emissions from the liquor burner at its Wagerup alumina plant would have faced stringent regulation in the United States.

An article in The West Australian of April 2002 headed “Worker blames fumes for asthma” states that “Alcoa gave office worker a breathing mask for emissions”. It goes on to say -

A former public relations officer for Alcoa’s Wagerup alumina refinery says the company gave her a breathing mask to wear at her desk after she complained that fumes from the plant made her ill.

An article in The West Australian of May 2002 headed “Alcoa in \$3m payout” states -

Nine workers who claim their health was ruined by working at Alcoa’s Wagerup alumina plant say the company has offered to pay them a total of \$3 million compensation.

An article in The Australian of May 2002 headed “Alcoa refines” states -

The real situation in a less sensational but more interesting case study of what happens when a large organisation fails to address people’s genuine concerns in a human way, rather than in the largely technical manner we mistakenly emphasised.

An article in The West Australian of May 2002 by Michael Southwell is headed “Alcoa told of health issues” and states -

A leaked internal memo shows Alcoa knew in January 1998 that emissions from its Kwinana and Wagerup alumina refineries appeared to be harming workers.

[Quorum formed.]

Dr J.M. WOOLLARD: For the sake of those members who have just come into the house, I indicate that I have been quoting the headlines of some newspaper articles. I turn now to a letter that I received from Alcoa World Alumina Australia in July 2005. The letter was in response to a statement that I had made in an article that -

Dr Edwards had ignored the fact the liquor burner was shut down in 2002 because staff and ex-workers were experiencing chronic and acute health problems.

Alcoa said in its letter to me -

The statement attributed to you is false and defamatory.

The letter goes on to say -

The voluntary closure was decided upon because unsubstantiated and inaccurate claims about cancer impacts were causing public alarm . . .

Many of these people are now very concerned that if they speak out publicly against a large corporation such as Alcoa, they will receive a similar letter stating that their comments are defamatory. We are living in an adversarial system. Many of these people are concerned that the big corporations will bring in the big guns and all they will be left with is the legal payments.

An article in The West Australian of June 2002 headed “Worsley liquor-burner shut” states -

Worsley Alumina has shut the liquor-burning plant at its Collie refinery, admitting that emissions appear to be harming workers and affecting nearby residents.

An article in The West Australian of June 2002 headed “Alcoa cancer rate shock” states -

A study of the health of Alcoa workers has found they have significantly increased rates of some cancers.

The following article in the Sound Telegraph in July 2002 was headed “Health fears prompt contractor walk off”, and it states -

Concerns about health fears prompted hundreds of contractors to walk off Alcoa alumina refineries in Kwinana, Pinjarra and Wagerup on Friday.

Another article in the Sunday Times in July 2002 under the heading, “Impartial study call for Alcoa” states -

A leading union has called for an independent ombudsman to be appointed to deal with complaints made by Alcoa workers.

An article in The West Australian in August 2002 under the heading “Alcoa offers staff free health checks” states -

Alcoa will pay for past and present workers to have health checks after a study found a higher incidence of cancer among employees than in the general community.

The reason I am reading these articles is that while working on this issue I have met many members of this group of people who are either seriously ill or have lost their loved ones. My statement was said to be defamatory, yet all these articles are saying much the same thing. Fortunately, I was able to respond to the letter I received from the company without recourse to the legal system. However, a lot of people in the community would be very concerned if they received a similar letter from a large corporation. That is the reason that this bill is very important. In many ways it is a shame that it was not introduced some years ago.

I will read out a few more of these articles to illustrate my point. In August 2002, an article headed “K58 Death List - Workers document health fears” and written by Carmelo Amalfi and Michael Southwell reads -

Workers at the Alcoa Kwinana alumina refinery have compiled a list of colleagues who have died or become ill after working in an area known as department K58.

It listed 10 Alcoa workers. As I said, that number has since increased. This article in the Sound Telegraph in January 2003 under the heading “Alcoa emissions falsely recorded” states -

The Department of Environmental Protection has defended its stance on industry self-monitoring, despite the admission by Alcoa that an employee had faked dust emission details.

In March 2003 an article in The West Australian under the heading “Former Alcoa worker wins illness compo” reads -

Former Alcoa worker Dave Thompson has won a four-year compensation battle in which he lost his job, house and health.

I refer to another article in The West Australian in March 2003 which is headed “Judge accuses Alcoa”. Could I ask for an extension of time, Madam Deputy Speaker?

[Leave granted for the member's time to be extended.]

Dr J.M. WOOLLARD: The article states -

A Supreme Court judge has criticised Alcoa for misusing WA's court system just weeks before the alumina company was due to go to trial to resolve a contractual dispute involving a workers compensation settlement.

In May 2003 there was an article headed "Widow links sinus cancer to refinery". An article in The West Australian in June 2003 under the heading, "Tests point to high cancer risk" states -

Blood tests on six former Alcoa workers exposed to fumes from the Wagerup refinery liquor burner reveal they will probably get cancer.

In The West Australian in June 2003, an article headed "Residents air fears over Alcoa - Ministers promise to maintain services in Yarloop" states -

Too little too late was the consensus of 120 people who packed Yarloop Town Hall last night to air their concerns about the health, environmental, social and economic impacts of the emissions from Alcoa's Wagerup refinery.

The following article headed "Probe into deaths of Alcoa workers" appeared in The West Australian in June 2003 and states -

The WA Health Department has launched a special investigation into cancer deaths and illnesses among past and present workers at the Alcoa refinery in Kwinana.

An article in the Weekend Courier in July 2003 under the heading "Alcoa Environmental licence downgraded" states -

The Department of Environment (DOE) has downgraded Alcoa World Alumina's Kwinana Refinery's Best Practice Environmental Licence status. The department removed the best-practice status after its investigations into Alcoa's findings that one of its staff had altered dust-monitoring results for the residue lakes.

In August 2003 under the heading "Anger over Alcoa ruling", an article in the press states -

The State Government's decision to not take legal action against Alcoa over doctoring of dust monitoring results from its Kwinana refinery has outraged local residents.

Again, in August 2003, an article in The West Australian under the heading “Alcoa lobby wants new study”, states -

Workers at the Alcoa Kwinana refinery have a higher risk of lung, colon, rectum and prostate cancer than the general WA population, according to former workers and workplace health campaigners.

In the Southern Times in October 2003, an article headed “SW town seeks action on Alcoa” states -

A small south-west community is poised to launch a multimillion-dollar class action against industrial giant Alcoa.

About 40 Yarloop residents met lawyers and financiers at the town bowling club on Friday.

Another article in May 2004 in The West Australian headed “More cases included in Alcoa study” states -

Medical experts investigating cancer rates at Alcoa’s Kwinana refinery have agreed to include in the study a further 11 cases of cancer among past and present workers from the same area of the plant.

It goes on to state -

“We are going to chase this down,” the department’s executive director of population health, Michael Jackson, said after the workshop.

These are some of the articles that I put together after I received a letter from Alcoa in case the issue ended up in court. I sent Alcoa a letter stating that I had read numerous media stories in The West Australian and local community newspapers on this issue and the evidence given under oath to the various sittings of the parliamentary Standing Committee on Environmental and Public Affairs when it investigated Alcoa’s activities at its Kwinana and Wagerup refineries. I pointed out that workers from the Alcoa and Kwinana refineries publicly raised concerns about the liquor burner at the site in the years leading up to and including 2002. Alcoa decommissioned the liquor burner in 2002. I also pointed out that it is not unreasonable to conclude that Alcoa would have given consideration to the staff health concerns when it made the decision to decommission the Kwinana liquor burner.

This bill is very relevant to me in my role as a member of Parliament and I believe it is relevant to every member of Parliament. We all have constituents who bring their concerns to us. We do not necessarily run with every concern that comes into our office but when it is backed up with evidence - in this instance, I have met these

people who are seriously ill and who would like to see the government undertake a proper study before more people die.

At the moment 20 of the 60 people who have been identified have died. In the next few years that list may include the names of more people who have died and left behind their families and loved ones. As the member for Nedlands said, the minister has identified this bill as a national bill. Some modifications may be made to this legislation in Western Australia or in South Australia to do with judges and juries, but our first priority is Western Australia, and it is important to bring in legislation at a state level. From what the member for Nedlands said, if this bill is not put on the table soon in a majority of the states the federal government will introduce legislation itself. We are in this Parliament as legislators to legislate for Western Australia. If it is likely that this legislation will be taken out of the control of Western Australia and given to the federal government, we should be acting sooner rather than later. This bill will provide protection for hardworking community groups, which often have volunteers, those who work for the Wilderness Society or the Conservation Council of Western Australia, and other community environmental groups that are pursuing local issues. We should provide protection for those groups and I believe that this bill will give that protection. The process will move from an adversarial one to more of an alternative dispute resolution approach. I support this legislation, but I will seek clarification from the Attorney General about some of the clauses. Like the member for Nedlands, I also wonder why the number was set at 10 employees in corporations, but I am sure the Attorney General will respond to that.

This may not be the best legislation, but it is an improvement on what is in place at the moment. The sooner we implement this legislation, the safer many people in the community will feel about making comments, based on their knowledge and awareness, against small and large corporations.

DR G.G. JACOBS (Roe) [4.13 pm]: I support the Defamation Bill 2005. I am not a lawyer and I have found some of the complexities of this legislation difficult to understand, but I speak as a concerned individual and participating member of Parliament. I thank the member for Nedlands for providing some of the background on a complex bill for people, such as myself, who are not lawyers. I make the observation that there are some good things about this bill. The maintenance of the clause about truth and the truth alone as a defence in Western Australia is a good move.

Mr J.A. McGinty: I agree with you. To my way of thinking, that would have been a deal breaker if states such as New South Wales and Queensland had insisted on watering down “truth”, because I do not think you can defame someone if what you are saying is the truth. It is as simple as that. It is pleasing to see that now becoming nationally uniform.

The rest of the conversation turned to the topic of Defamation totally off topic as we

would expect the conversation to go. Read full storie at above link.

