

# Class-action lawyer speaks:

WESTERN MAIL  
4/11/81

# CHALLENGE TO PREMIER

By BRAD COLLIS

THE American lawyer putting the WA Conservation Council's case against Alco and Reynolds metals last night challenged the Premier, Sir Charles Court, to take the witness stand.

Counsel Victor Yannacone yesterday replied to State Government proposals for its own legal action in the United States to oppose the jarrah class action.

"I'd love to see this man in a witness stand. He has a lot of questions to answer," Mr Yannacone said from New York.

"I don't think he will fare much better than Nixon if he tries to impose his politics on our courts.

"Sir Charles Court ought to consider not to interfere, but to come over for the conservationists to protect your water, environment and resources.

## 'Audacious'

"It's audacious to say the conservationists are a threat to the interests of your State and nation.

"He might better protect these interests by re-negotiating with the companies a deal that is not giving away a national, natural non-renewable resource for the manufacture of highway litter.

"Most of the alumina from your country is used to make American beer cans.

"Alumina is a great product, but to waste half of your non-renewable offshore gas to refine alumina for beer cans is an outrage.

Sir Charles Court was yesterday unavailable for comment. But departmental sources say it is unlikely the Premier would even consider being questioned in a foreign court.

They say if the government goes to court it will be represented.

WA Conservation Council president Neil Bartholomaeus yesterday described the State Government's moves for possible legal action as "irrelevant."

In Perth, one of WA's leading Queen's Counsels, Frank Downing, said American courts could produce "extraordinary" results from off-the-cuff cases.

"The result could largely depend on how the case appeals to the judge on a public relations basis rather than a legal basis," he said.

"That's why the State Government is anxious to get a resolution through condemning the action.

West Aust 28.3.81

# Alcoa puts its case

Alcoa of Australia does not believe that the legal action being undertaken in the U.S. by the WA Conservation Council against the Aluminium Company of America is valid.

We judge the allegations by the Conservation Council to be a gross distortion of the facts.

We have had many inquiries from the public seeking information about the progress of this class action and expressing anger and amazement that West Australians are deliberately seeking to jeopardise the livelihood of fellow West Australians without any regard for the future of these workers and their families and for the thousands of others who depend on Alcoa for their jobs in the South-West, Perth and Fremantle.

The principle of the class action has enormous implications, not just for Alcoa but for the Australian people, their governments, Australia's foreign relations and the investment climate of this nation.

## American

I say this as an American citizen on secondment to Australia—but nevertheless as one who would be just as concerned if an overseas court was to consider similar action against a domestic U.S. company.

It would seem to Alcoa that some members of the Conservation Council seek to overturn decisions made within Australia by Australians on behalf of fellow Australians over the past 20 years.

Alcoa has said repeatedly that decisions governing bauxite mining in the Darling Range and alumina processing have been made by successive State governments of the two major parties in WA with the agreement of

Earlier this week *The West Australian* published an abbreviated report of an address to the Perth Press Club by Mr J. Vann, Alcoa's general manager in WA, on the implications of the jarrah classification initiated in the U.S. by the WA Conservation Council. The report dealt with possible ramifications for the North-West Shelf project. Here is a substantial account of his address.

the Federal Government of the day.

Bauxite mining has been put to the test in terms of the most stringent environmental scrutiny ever conducted in WA.

We believe that there is a broad consensus in WA on this matter.

There is no justification for the Conservation Council to take this matter outside the Australian parliamentary and judicial process.

The action of the Conservation Council is irrational because it comes from a group which in the past has been publicly opposed to any American involvement in the development of Australian resources.

Alcoa is not frightened of environmental scrutiny. We believe that this is a good thing.

Alcoa does not believe that the U.S. judiciary is in a position to judge, or should have any status in determining, environmental matters in this country.

## Future impact

Where would class actions of this type stop if they succeeded in becoming the order of the day?

Would WA farmers be victimised by these same environmentalists because they have caused salinity—would they try to cut off the State's agricultural exports to the U.S.?

Are uranium producers, oil seekers and a host of other companies with American connections in Australia, with their billion-dollar investments,

to be taken to court on class actions in the U.S. because of some dissident notion of what is "good" for the society we live in.

Already the leadership of the Conservation Council has indicated it wants to involve the aluminium industry in the Eastern States in similar class actions.

The implications for Australia's investment climate alone are frightening, considering the enormous dependence on American capital to help develop Australia's resources.

The Aluminium Company of America will vigorously oppose the class action—not because of concern with the propriety of our Australian operations but because of the dangerous legal precedent that could be established in allowing a jury in America to decide matters that are solely within the province of Australia.

## Mature view

I would like to make a plea for more mature conservationists to be more frequently reported in the news media.

There are many such people whose genuine contribution over the decades is reflected in the pleasant environment we live in and the strong environmental codes governing our major development projects.

Such people understand that a balance can be struck between conservation and development—between the need to make room for man and his needs as well as for trees and animals.

These genuine conservationists act as a restraining force on corporations and governments—they are a conscience we cannot do without.

They differ from those callous environmentalists who have lost their sense of perspective and who push their particular views to the detriment of

Unfortunately, it is this narrow-minded faction which masquerades as the entire conservation movement which, if unchecked, can taint the movement's reputation.

It is encouraging to see reports that the Tree Society is refusing to hand over its membership list to the Conservation Council in respect of the class action.

It is equally reassuring to note the sane views of other prominent conservationists who oppose this class action.

## U.S. lawyer

The lawyer hired by the Conservation Council as its legal representative in the U.S. recently, made the following comments on the ABC's Four Corners programme:

"The American judiciary system is not going to tolerate an American-based, soul-less, state-less, multinational conglomerate turning Australia into a quarry, destroying centres of the forest, increasing the risk of serious disease and illness to people of Perth and Western Australia, just to increase the number of aluminium beer cans, drink and beverage containers that litter our highways here in America.

"It is not a few trees, it is the western half of an entire continent. It is the most critical protection for Perth's water supply."

I think even the most severe critic of Alcoa would concede that this man has not got his facts right. Based on these comments, I wonder whether he has ever seen a jarrah tree or visited the Darling Range.

## Clearing

It is a matter of record that in a jarrah forest area the size of Belgium (14,000 square kilometres), Alcoa, during the past 17 years, has cleared

square kilometres or per cent of the northern jarrah forest. Of that area, about two-thirds has been cleared, and progressively billeted. The other is made up of fixtures such as buildings.

The current rate of clearing is about 3 square kilometres a year and we expect this to reach about 4 km. annually by 1990.

This is hardly the eastern half of an entire continent. In fact the area and effects of bauxite mining are very small compared to other industrial land uses, only one of a number of activities having an impact on the Darling Range.

We would be glad to provide the Conservation Council's lawyer with a tour. It would be interesting to see if he tells a jarrah tree is many other eucalypts that have been planted in our reforestation areas. The statement that Alcoa is increasing the risk of disease and illness to a count of its mining activities is just as ludicrous.

The fact is that Alcoa operations have not had any adverse effect on Perth water supply despite the public announcements to the contrary by a few who choose to make these supportable comments.

The western zone of jarrah forest where Alcoa currently mine is classified as high fall. It has very little stored in the soil and streams yield little water regardless of management or vegetation cover.

Bauxite mining does cause stream salinisation in the region.

As for the comment that "Soul-less, state-less, multinational," I wonder what institutions such as the WA Institute of Technology, Murdoch University, the WA Institute of Sport and the Festival of Perth think about this.

## Support

Alcoa's community support for West Australians in the metropolitan and south-west areas of which is made possible by our bauxite mining and alumina processing—is considerable.

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# Alcoa

For example, Alcoa is the founding sponsor of the WA Institute of Sport—we are sponsoring this to the extent of \$150,000 over three years.

We are one of the main sponsors of the Festival of Perth and we are contributing a professorial chair next year at WAIT in chemical engineering, in addition to funding a research fellowship in forest ecology at the University of WA.

We have supported a number of activities in the South-West.

We respect the feelings of West Australians for the jarrah tree and the heritage associated with this forest. We would like to see a cure found for jarrah dieback disease—and we are going to continue to help to try to find a cure through financing research in this area.

Dieback has been present for about 60 years—long before Alcoa came on the scene.

Dieback currently infects about 30 per cent of the western part of the Darling Range where Alcoa expects to mine for the next 30 to 50 years. It makes sense to plant a preponderance of dieback-resistant eucalypts as opposed to jarrah, which will only succumb to disease, although we are continuing to plant some jarrah.

Bauxite mining generates a significant part of the funding required to maintain research into dieback and to undertake extensive reforestation.

Alcoa has given a commitment not to mine in the lower-rainfall eastern zone until research and trial mining have shown that salinity can be controlled.

Bauxite mining, power generation and forest clearing contribute to the spread of dieback.

Instead of the sad spectacle of a forest ravaged by dieback, or replaced exclusively in mined areas with jarrah trees with no certainty of survival, Alcoa is fully supporting the Forests Department.

## Flourishing

Most of the 1.5 million or so trees Alcoa has planted under the supervision of the Forests Department are flourishing, the animals peculiar to the jarrah forest are returning and the understorey is beginning to come back.

Alcoa's continued involvement in the jarrah forest in partnership with the Forests Department will maintain much needed research into dieback, general forest ecology and substantial employment for thousands of people.

## Focal point

We have a policy of open information to the news media and the public concerning our environmental activities. Last year more than 44,000 West Australians visited our operations and we expect more this year.

The South-West is rapidly becoming one of the focal points of Australia

development, spearheaded by the bauxite-alumina industry.

The \$320 million Wage-rup alumina refinery is scheduled to come on stream next year, even though we have slowed the construction as a result of the softening of the international aluminium market.

We have salt which we export to the chlor-alkali industry in Japan. We have natural gas to provide the ethane feedstock—and our industry will ensure that this gas is piped to the Perth area. We provide a natural market for one of the major co-products.

Regardless of smelting developments in WA, there will be a huge market for aluminium fluoride in Australia—and all of it is currently imported. We obviously have the alumina hydrate, one key production input.

There is also available some fluorisilicic acid, the other key input. This is another industry that should come into contention.

Alcoa believes that there must be a proper and effective balance between jobs and environmental safeguards and I believe we are successfully demonstrating this.

Minister Haughey Dec 1950

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