Speech by

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL (No. 2)

Mr GRICE (Broadwater—NPA) (10.12 p.m.): This Bill is another missed opportunity, another bureaucratic impediment that the Beattie minority Government, representing 37% of the people of Queensland, is intent on placing in the way of Queensland's economic future. Queensland, by virtue of the legislation of the Federal Parliament, has been given an opportunity to enact State legislation that will prescribe the various steps necessary to ensure that mining exploration and activity can take place on non-exclusive tenure land. This is a so-called section 43A procedure. In addition, the State can enact legislation for unallocated State land which prescribes a State-based right to negotiate procedure.

Honourable members may recall that these points were made abundantly clear in the sixth point of the Prime Minister's 10-point plan. The sixth point provided as follows—

"6. Future Mining Activity

For mining on vacant Crown land, there would be a higher registration test for claimants seeking the right to negotiate, no negotiations on exploration, and only one right to negotiate per project. As currently provided in the NTA, States and Territories would be able to put in place alternative regimes with similar right to negotiate provisions.

For mining on other 'non-exclusive' tenures such as current or former pastoral leasehold land and National Parks, the right to negotiate would continue to apply in a State or Territory unless and until that State or Territory provided a statutory regime acceptable to the Commonwealth which included procedural rights at least equivalent to other parties with an interest in the land (eg the holder of the pastoral lease) and compensation which can take account of the nature of co-existing native title rights (where they are proven to exist)."

As a result, the revised Federal Native Title Act allows Queensland to enact an alternative right to negotiate process for unallocated State land and a separate and less stringent regime for non-exclusive tenures. The problem with this Bill is that this Government is determined that the clear intent of point six of the 10-point plan be subverted by a half-baked right to negotiate process being imposed on non-exclusive tenures.

The reason that point six of the 10-point plan was inserted in the first place was as a result of the severe and entirely detrimental impact that the right to negotiate process was having on minerals exploration and development in Australia. The impact of the right to negotiate process from a developmental perspective has been absolutely disastrous for the Australian economy. The Premier has gone on and on with totally misleading comments about the actions of the coalition while it was in power, but let me concentrate just for a moment on the impact of native title on activity in Western Australia.

In that State, where the Native Title Act right to negotiate procedures have been applied, the number of mineral leases granted fell dramatically. The number of mineral leases granted each year since the commencement of the Native Title Act has been as follows—and this should be clear and understandable, even for those elected by 37% of the population of Queensland—in 1993-94, 805 mineral leases were granted; in 1994-95, 611; in 1995-96, 368; and in 1996-97, 159.

What the Premier failed to point out in his second-reading speech or publicly is that, since the commencement of the Commonwealth legislation, no native title negotiations have been completed

within the statutory time periods—none, not one— numerous multiple overlapping claims, in one case of 18, on the one mining application have severely hindered negotiations; nearly 2,000 mining title applications remained queued in the right to negotiate process, with some held in abeyance for three years; and, in the case of Western Australia, only 158 voluntary agreements have been cleared for grant, resulting in 48 actual projects. This compares with between 600 and 800 mining leases granted each year in that State before the commencement of the Commonwealth Act. That has gone from between 600 and 800 down to 158.

All this is very troubling for any person who has any real interest in Australia's development. Some people criticise and deride those who are keen on development. They are sometimes portrayed as not interested in the environment or somehow hold regressive or less than progressive views, but those very people who are critical of development are often the first to lament about the level of youth unemployment or the terrible conditions that many in our community face. I would suggest that there are a lot of those in this House: on the one hand, they are critical of development and, on the other, they lament the level of youth unemployment and the terrible conditions that many in our community face.

The truth of the matter is that, without a growing economy so that we can all share in the prosperity of our nation, unemployment will continue to increase and the disparity between the rich and poor will continue to grow. In this context, it is important to constantly remember the importance of the mining industry to Queensland and to Australia. The minerals industry is Australia's largest exporter. In the financial year 1996-97, mineral resources represented 45% of our total merchandise exports and about 34% of Australia's total export revenue. In dollar terms, this equated to approximately $34.6 billion, or 7.7% of Australia's total gross domestic product. Four in every 100 Australians owe their livelihood to the minerals industry. In 1996-97 the mineral production and processing industry engaged directly and indirectly over 300,000 people. Importantly, this employment is provided in a mix of remote and rural areas as well as in areas on the outskirts of certain centres where manufacturing and downstream processing occurs. Also, for the information of honourable members, I point out that the mining industry accounts for about 20% of total private new capital investment in Australian industry and it spends about $15 billion per annum on goods and services, with about 80% sourced from Australian-based companies.

Whilst I could go on and give other figures, the real point here is that this industry plays an absolutely critical role, and every effort has to be made to ensure that its viability and continued growth is assured. Too many jobs and too many lives are at stake. That brings me precisely to this Bill.

I would challenge almost any member to claim that they totally understand the Bill. This piece of legislation is 150 pages long and is one of the most complex that this House has ever had to consider. Yet, despite its length and complexity, one matter stands out like a beacon. This Government has seen fit to put unnecessary impositions on the mining industry.

The Premier has attempted to make a virtue of the fact that he will impose a modified right to negotiate process on mineral activity taking place on non-exclusive tenures. He claims that the procedures mandated for such tenures in section 43A of the Commonwealth legislation are "minimalist". Any reasonable person reading section 43A would regard the procedures set out as being fulsome and expansive. Perhaps having regard to the downturn in the mining industry and the risk of unemployment facing many people in our remote communities, some would say that the requirements set out in section 43A are themselves an overkill.

This is not an issue of trying to abrogate or stamp on the legitimate rights and interests of our indigenous citizens—far from it. All honourable members would recognise that the bulk of our indigenous citizens live in the very remote localities that are in need of the wealth and services that are produced by the mining industry. These people are calling out for—even demanding—the right to be able to take part in the wealth generation that the mining industry brings to remote localities. It must be appreciated and recognised that the Native Title Act is but one of a number of statutes designed to protect and enhance Aboriginal culture and environmental heritage issues.

It is not as if there are no other pieces of legislation of both a State and Federal nature, not to mention local authorities' by-laws, that are designed to protect Aboriginal cultural artefacts and advance Aboriginal culture. The fact is that the Native Title Act has been used by certain Aboriginal groups as a tool to extract money and minerals from mining companies. In this context, one has only to remember the farce that was the Century Zinc right to negotiate process to appreciate that. None other than Bill Hayden, who led the negotiating team, said of the Native Title Act in an open letter, a copy of which was sent to the Premier—

> "... the opportunities the legislation offers for outside manipulation of processes and for the adoption of measures which come perilously close at times to being extortion."

Gary Johns, a former Federal Labor member for Petrie, said in an article written for the Courier-Mail this year—

> "The reality of the right to negotiate is that, in conjunction with an easy test for registration, with the flimsiest of evidence claimants can extract from miners rent in the form of royalties, jobs and training from what would otherwise be for them unproductive land.
>
> This Robin Hood mentality shows the flaw in Labor's thinking. Why should special rights attach to a title held by one race be used essentially against one industry?"

This really is the heart of the problem, because the revised Federal Act has tightened up the right to negotiate process. For that, all people of commonsense and goodwill will be pleased. As part of the 10-point plan, the registration test has been strengthened and the process has been streamlined. Nevertheless, the basic point Gary Johns made remains: there is still in place a process, a special procedural right, given exclusively to one race, which is used in a predatory sense mostly against one industry; namely, the mining industry. For the benefit of honourable members, I return briefly to Bill Hayden. He also made the following observations—

> "The tragedy of failure to rectify these shortcomings will cause major national economic detriment. I doubt that many Australians realise that Australia's comparative advantages as a venue for large scale investment in mineral development projects is apparently facing stiffer competitions around the globe.
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> For instance London based Conzinc Rio Tinto, owners of CRA which in turn presently owns CZL, is rationalising its world operations, notably it seems in Australia, and is moving investment out of pockets which are less attractive in some countries (like Australia) and putting the funds into more prospectively rewarding development elsewhere.
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> Now, there are a number of obvious adverse consequences for Australia should this become a trend, as some with a familiarity with mineral development suggest to me it will. In any event, delays associated with approval processes related to getting mineral development projects started up add great costs to projects.
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> In some cases I expect these can become unacceptable. The costs of responding to the CZL draft agreement alone exceeded $10 million for CZL, I am advised, and the costs borne by the Queensland Government, while no doubt less, would be also of a very high order."

In a nutshell, that is the problem that the Opposition has with this Bill. Under the amended Federal Native Title Act, the States are given the opportunity to enact alternative provisions to cover most mining activity on non-exclusive tenure land. That right is set out, as I said previously, in section 43A. That section contains a number of requirements that have to be met with the State legislation, yet despite this the Premier and this Government are intent on adding extra cost and procedural burdens to mining companies by refusing to adopt the section 43A approach.

The Premier says that the requirements enumerated in section 43A are minimalist and this Bill rectifies that by adding some of the revised right to negotiate requirements in section 43 which, as I said, were only intended to apply under State legislation to unallocated State land. One would have thought that the warnings of the Bill Haydens and Gary Johnses of the world—they were both Federal Labor heavyweights—would have alerted this Labor Government to the folly and danger of imposing unnecessary negotiating burdens on our mining industry. It has absolutely ignored them.

It is not as if the Opposition is assuming that the revised section 43A approach will harm the mining industry. That fact is made absolutely clear by the Queensland Mining Council. In a press release of 30 October, the council states that this Bill threatens future investment projects and jobs or, as the Government elected with 37% of the vote says—jobs, jobs, jobs. It says that it will impose a major disincentive to Government. It says that it will set Queensland at a disadvantage to the rest of Australia and the world. Those are powerful words and they carry with them a very powerful reason why this Bill should not be passed in its current form. If this Government is really interested in jobs, especially jobs for young Queenslanders and those in remote and rural areas, it should admit that this Bill is flawed and ensure that the extra burdens imposed under the modified section 43A process are removed.

If this Bill is passed in its current form, it will put our mining industry at a severe disadvantage. It will retard economic development and act as a brake on job creation. The Premier should heed the warning given by the Mining Council and put politics and acting aside for once and act decisively to advance Queensland's interests by amending the legislation. Unless and until the Bill is amended, it cannot be supported, because it is a job-destroying exercise that will harm the mining industry and do nothing whatsoever to help the indigenous community.
