



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

Mr BEANLAND (Indooroopilly—LP) (5.49 p.m.): In rising to speak to this Bill, I would like to refer to a major issue, and that is the application of the right to negotiate in relation to mining lease renewals. I seek a specific response from the Premier prior to the Committee stage, and I want him to respond specifically because a number of very important issues in this matter need to be spelled out clearly. The Premier has been pretty confusing on this issue, as he is on a range of issues, and quite often misleading on purpose. This very important issue needs clarity. It is a toss-up as to whether the Premier is being deliberately misleading on this central point in relation to native title or whether he simply does not know which end is up.

I refer specifically to the Premier's claim that he fixed a reversal of Federal Labor's position on the application of the right to negotiate in relation to the renewal of mining leases. Federal Labor wanted such a right; Queensland Labor convinced it to drop that requirement. The Premier has said in this place, and publicly, that almost 12 months ago he went to Labor's national conference in Hobart and achieved agreement with the Federal leadership to again look at Labor's position on whether or not there ought to be a right to negotiate in relation to the renewal of mining leases. I want to emphasise that point. Obviously, that position in favour of the right to negotiate in relation to renewals was in addition to the Federal view that there ought to be a right to negotiate at the exploration phase and a right to negotiate at the mining stage.

So we had, and demonstrably we still have, a Federal Labor position that is in favour of no less than three separate rights to negotiate in relation to mining: at the exploration phase, at the mining phase and at the time of renewal. That gets confusing because we now have in Queensland a Labor Government that is not in favour of a right to negotiate in relation to exploration—or at least so it says—in favour of a right to negotiate on mining, is silent on the issue of renewals and, as other speakers have pointed out, also silent on the issue of infrastructure.

It would be good for the public to understand where the State is heading under this Government. In that regard, it is instructive to consider where the Premier has been on the issue of the renewal of mining leases. As I say, it is really quite confusing. No doubt he is trying to muddy the waters on this very important issue. In December last year, during the debate on the Native Title Amendment Bill in the Senate, in response to the Federal ALP's first effort to have a right to negotiate imposed on exploration, the response of the then Leader of the Opposition, now the Premier, was to go to the Federal conference in Hobart and demand a rethink on the renewal of mining leases. We all recollect his chirping in relation to this matter. He trumpeted that he had been successful in doing that, in that Labor's Wik group agreed to speak to the mining industry in Queensland about the issue. Obviously, that is what they should have been doing in the first place as part of the consultation process. In fact, if they were not speaking to the mining industry, that speaks volumes for Labor's consultation! If I recollect correctly, at that time the Premier went overseas and was not even in Queensland when that consultation group visited. He found good reasons to leave the State.

The whole exercise turned out to be a right royal farce. The Premier was not here for the consultation that the Federal Labor Government should have been conducting all along. It was

unthinkable that the consultation group did not talk to the Queensland mining industry in the first place. However, at the end of the day, that consultation made no difference whatsoever.

Nevertheless, this procedural point was hailed as a major breakthrough by the then Leader of the Opposition, now the Premier. However, despite claims to the contrary, Labor backed precisely the same amendments in relation to the right to negotiate on mining lease renewals in April, months after the then Opposition Leader, now the Premier, claimed victory in his fight for truth, justice and the Queensland way, as it had in the first Federal Bill, as it then was in November and December. So much for these great talkfests, to which the Premier seems to be so endeared and which day by day are becoming more regular. So despite all the discussions and the Premier trumpeting that he had a great win over his Federal Labor counterparts, Labor went nowhere and retained its first position. In fact, there was no win at all. The then Leader of the Opposition, now the Premier, failed. It was just another backflip, which we have seen him do so often. Again and again, we have had all talk and little or no action. Certainly, we have seen that in relation to this matter.

The mining industry made it plain that there was absolutely no change in Federal Labor's position. It said that the right to negotiate on mining leases proposed in April would trap most mining lease renewals into the right to negotiate, as planned by Federal Labor. Of course, we saw Labor adopt precisely the same line when the matter was finally settled in July. Quite frankly, despite a lot of talk and a lot of trumpeting of victories, the whole situation has gone nowhere. In fact, there has been one backflip after another and complete failure.

For those members who might wish to check what I am saying, I refer them to Senate Hansard of 4 December last year, page 10,370, for the explanation of Labor's original amendments by Senator Bolkus in the Senate; to 7 April, page 2,234, for his repeated efforts; and to 7 July, page 5,077, for his third emotional plea for a right to negotiate on mining lease renewals. Each time it is noted in the Senate Hansard that Senator Bolkus put the same position time and time again, pleading for a right to negotiate on mining lease renewals. That is Labor's position, and it has been that all along.

I would be interested to hear how the Premier reconciles those policy positions espoused so consistently by Federal Labor with his claim to have successfully influenced his Federal colleagues on the point. I would also be interested to hear his understanding of where we are going in this State in relation to mining lease renewals. Further, I would be interested to hear from the Premier an explanation of his own inconsistency on the overall right to negotiate issue. This Bill covers only a fraction of the ramifications of this very important issue: the justice associated with land management in this State for competing rights and for our economic and social future.

For example, late last year in response to the Federal Bill after its first consideration by the Senate, the Premier told John Lehmann of the Courier-Mail that he supported the legislation. I am sure that the Premier misled the public of this State to deliberately confuse and muddy the waters in relation to his true position on this very important issue. In a great number of respects, that was a very different Bill from the one that emerged finally from the Senate in July. The Bill that the Premier was reported to have supported was rejected by the House of Representatives, leading to a very different Bill as a result of the April consideration and then a further different Bill as a result of the July consideration.

So one has to ask: what does the Premier now support? Are we going to see more amendments to this legislation? Is the Government going to bring in some amendments at the last minute, or is it going to accept amendments from an Independent, or a One Nation member? Where is the Premier going on a whole raft of issues concerning the right to negotiate that are simply not covered by this legislation? That is particularly important because, so far, we have heard very little about these other issues in relation to the right to negotiate.

Mr BEANLAND (Indooroopilly—LP) (8.30 p.m.), continuing: Earlier this evening I was referring to where the Premier was going with this raft of issues in relation to the right to negotiate. A study of the Premier's records to date can only create confusion because of the number of positions that have been adopted by him. We need these matters cleared up.

For example, I believe that it would be instructive for the House to hear from the Premier where he stands on infrastructure issues, both in relation to large projects that cover a great deal of territory, such as gas pipelines, and smaller projects that are undertaken in our towns and cities. This Bill is silent on those issues, yet they constitute an area the right to negotiate potentially affects that, collectively, may well be as significant as mining. I say that because of the types of things that the term "infrastructure" covers, such as bridges, roads and electricity lines. The infrastructure question is of very great importance, and we have heard some of the ways in which that will be the case for Queensland. However, it will clearly have very widespread ramifications.

When the infrastructure issue was first dealt with in the Federal Parliament, Labor fought tooth and nail to make a great variety of infrastructure work subject to the right to negotiate. For example, it wanted to make public infrastructure work by public utilities, which were even exempt under Paul Keating's very misguided legislation, subject to the right to negotiate except where the issue was one of

maintenance or of reconstructing works in the original corridor, such as powerlines, gas lines and water lines. In the Senate, Labor also favoured a very broad reach of the right to negotiate in relation to infrastructure built by third parties which, as other speakers have pointed out, is becoming increasingly common. Even the former Labor Government in this State championed the use of third parties for the construction of public infrastructure projects yet, if the Premier is going to insist on a right to negotiate, we have a potential major roadblock looming for those sorts of things. That is a particular issue for Queensland. We do not have a head of power in this State, as do most other jurisdictions, for the compulsory acquisition of property rights for third parties. So there will be no quick way for us to facilitate those sorts of things.

The State cannot in a non-discriminatory way acquire all the rights that might apply to land in order to advance projects that could be crucially important regionally or even at a Statewide level. We will have to go through the full right to negotiate process if that is what the Labor Party opts for. Of course, there is no logical route to follow in relation to what we have seen from the Government to date to make even an educated guess about these matters. I look forward to the Premier clearing up these many issues in his reply.

To date, from the legislative response of this Government on the Wik package, we have seen it adopt wholeheartedly the first two points of the 10-point plan, despite Labor's opposition in Canberra. Then we have seen a mixed response on these mining issues: no right to negotiate on exploration, despite Labor's support for a right to negotiate on that activity, but a full right to negotiate on mining on pastoral land, which is in line with the Federal position. Frankly, compared to its Federal counterparts, the Queensland branch of the Labor Party is all over the place on native title.

I think that we all deserve at least a clear indication from the Premier of what he is going to do in relation to the infrastructure issue in the cities, the towns and beyond. I suspect that we know the answer because, of all the Wik-related issues that were discussed in the Senate, the right to negotiate was the one on which the Left of the Federal Labor Party really stood its ground. We can only assume that Mr McGaw from Mr Beazley's office, who I understand has been running Labor's Federal agenda around the States and telling them to toe the line on the right to negotiate, has endorsed the Premier's stance on the exploration issue. However, I believe that all Queenslanders deserve to know what Mr McGaw's riding instructions for the Premier are on the infrastructure issue, because it is a big issue within the community generally, particularly for the people involved in the mining industry.

I suspect that we on this side of the House can see what is going on. The piecemeal approach to the Wik issues by this Government is probably not a sign of its incompetence but rather a quite deliberate tactic to keep from view its overall approach until we see the very last piece of the jigsaw fall into place. In other words, we are seeing a Government engaging in the old divide and rule principle, or the drop-by-drop Chinese water torture technique: let a little bit go, see how it rides, and then move on a step or two down the track until at the end we see a pretty comprehensive kowtow to Mr McGaw. That is what this side of the House expects to see.

Heritage issues are another aspect of the overall set of issues that will have a profound impact ultimately on the way in which any right to negotiate is going to work in this State and, indeed, nationally. There is no doubt that cultural heritage legislation both at the Commonwealth level and the State level needs a fairly comprehensive overhaul, notwithstanding the fact that the Queensland Public Service and some of our most responsible land councils have effectively worked miracles under the current laws.

Other speakers have dealt with the south-west gas pipeline and the north-west gas pipeline projects, which were triumphs for all concerned. However, there needs to be an overhaul and the definitions that will emerge in that overhaul in relation to sacred sites and sites of significance are going to be absolutely crucial. For example, we understand that the Government is considering dropping a prescriptive set of definitions in relation to sacred sites for a very blurry view that will revolve around sites of significance. We understand that sites of significance are going to be delineated so broadly as to be almost anything with which Aborigines at some time have had an association, with highly prescriptive indicators as to what authority Aborigines will have to stop projects that threaten these sites of significance. In other words, the Government's revamp of the cultural heritage laws could create an effective and quite specific veto where we are told none now exists.

As other speakers have indicated also, it is a very moot point as to whether the current right to negotiate amounts to a de facto veto. Certainly, when one looks at projects such as Century, which after many years of negotiations in good faith is still uncertain, there is a case for saying that the veto right exists already. However, any suggestion that this could be formalised by heritage laws, which the Government is officially silent on but which could have an immense impact, is something that this House deserves to know about and know about now. We all know that claims are being made on Century in relation to the powerlines and the bridge.

Although it is apparent that the Government is intent on rushing though one corner of its right to negotiate policy either late tonight or tomorrow—and it is a very important corner—all its cards on this issue are not on the table. They should be, and I look forward to the Premier putting those cards on the table, as I have called for him to do. It really is a slap in the face for this House that we have these matters being dealt with in such a piecemeal fashion. So I call on the Premier and his colleagues to come clean and spell it out.

I also notice that the words "in good faith" have been taken out of the legislation. That does not get away from the fact that mining companies will still be required to act in good faith in any negotiations that they might have in relation to this legislation. Of course, under common law they are certainly required to act in good faith. If the Premier believes that he is doing the mining industry some great turn, that is certainly not the case because it will still be required to act in good faith. Otherwise, when it comes to tribunal or court hearings, they will not have a leg to stand on in relation to the negotiations that they have undertaken. We need to spell that out quite clearly.

In conclusion, in another place the Labor Party exempted the Chevron gas pipeline from native title legislation, but it is not exempting any projects in the Queensland legislation. That seems a little hypocritical, as anyone who listens to this debate or reads about these issues will understand. The Chevron pipeline project, which will bring gas from Papua New Guinea to Queensland, is a good project in itself, but this is a situation where Queensland——

Time expired.
