Speech by

GARY FENLON

MEMBER FOR GREENSLOPES

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS BILL

Mr FENLON (Greenslopes—ALP) (3.53 p.m.): As legislators considering this Bill, when we look at the history which has brought us here, we find ourselves in a truly a bizarre situation. Indeed, in many ways it is a very sad history. Today, its most bizarre attribute is brought to us by the existence of that surreal dictum, that fabulous fiction called terra nullius. Indeed, that Latin dictum indicated that Australia was not occupied before settlement of the English some hundreds of years ago. That dictum continued with us until very recent times. That is part of the very bizarre situation we find ourselves in, because it took so many hundreds of years for our own generation to turn over that dictum.

Today, we meet here as legislators faced with the very difficult task of basically putting Humpty Dumpty back together again. Humpty Dumpty fell off the wall in the sense that from the very outset the process of recognising native title in this country was a disaster created by this dictum of terra nullius. Since the overturning of that dictum in very recent years, throughout this country legislators have been left with the very important job of putting together a way of moving forward, not looking backwards. We are all very pleased that we have left behind terra nullius and that we are moving forward. As legislators in this Parliament and in all other Parliaments of Australia, that is our job: to move forward and to put in place a process that deals with the existence of native title in a proper way, that deals with fundamental principles as Australians and with fundamental ways of recognising the realities that native title exists and that those very fine people of Aboriginal and Islander descent have myriad relationships with the land.

As legislators, it is exactly that question of those people's relationships with the land with which we have to deal. In terms of those relationships, we have a true galaxy of permutations and combinations ranging from very clear, definable multigenerational relationships that are very close, as was originally recognised in the Mabo decision as it related to the Torres Strait islands, through to very distant and extremely remote relationships that exist in some of the inner-city areas in some of the larger cities in Australia. That is the galaxy with which we have to deal as legislators. In terms of defining those relationships and defining various rights in this country, we have to find a way to establish them not for today, not for tomorrow, but for perpetuity. We are looking to establish those relationships for generations in the indefinite future.

In dealing with that fundamental question, in this country we have two diametrically opposed approaches to it. One approach that we have seen, especially from members of the conservative side of politics, has been brought about because they have a very strange belief—an unbelievable belief—that they can come along as legislators and draw a line through that set of permutations and combinations, through that galaxy, and say, "From now on, looking into the future, these are the relationships that will exist. These are the best ways of regulating these relationships." What an absurdity! That shows the falsity and the shallowness of the conservative side of politics in this country in its approach to this problem.

It is indeed a shallowness not only because it is completely bereft of intellectual depth in acknowledging and analysing the problem but also it is dishonest, because it is derived from a fundamental bias. So far in this debate we have heard various assertions from honourable members opposite about the factions in the Labor Party and the various biases that are carrying this issue. The real bias throughout this issue is landed interest.

We in this Parliament do not have to look very far to find that landed interest. We simply have to look to the pecuniary interests register declarations of members opposite. Pecuniary interests declarations of not only present members opposite but also throughout their whole heritage, over generations, show that they are indeed the landed interests. They are the Australian domestic equivalent of the landed aristocracy, and they are biased. They are protecting their own interests in this.

Mr Borbidge: Why don't you list your home for a bit of coexistence? Put your money where your mouth is.

Mr FENLON: I rest my case. That remark just shows the shallowness of the Opposition's approach and shows its bias. We only have to go to the pecuniary interests register to see exactly what coalition members stand for. We do not have to look any further than that. That is the interest. It is very clear that that is where they are coming from and that that is their bias. That is why those on the conservative side of politics have defined those native title interests in their favour—in the favour of those landed interests throughout this State. They are indeed the interests that those on the conservative side of politics represent. That is a biased and shallow intellectual approach to this issue.

The only way to resolve this issue is to define over the long term just what those interests are—parcel by parcel, block by block, site by site throughout this country. It will not be done overnight, and nor has it been done overnight in those countries which have gone through similar experiences, albeit not so bizarre experiences in the sense that they had a much earlier recognition in their history of the existence of native title and they have indeed moved from that point in a far more amicable way, to go about the process of defining just what those interests are—again, block by block, site by site. That is what we have to do here. It is a process that has to be forged upon goodwill and upon a willingness in the longer term to put together agreements and understandings about every place, every site. We cannot simply define en masse the entire set of relationships at this point in history.

We have come to the point of having to deal with this particular parcel of land tenure in this Bill simply because we have inherited those circumstances. We are the legislators who have had to find a way through what is really a transitionary period. It is a transitionary period from the initial recognition of those native title rights through to a process that we can settle on, that we can get on with as a country—not just to recognise rights but to get on in a broader sense with the very important task of reconciliation, which we all have before us.

I know that reconciliation will mean a lot of different things to different people in this House, but reconciliation is a very long-term process which is about simply recognising individual rights and native title rights in myriad ways. Again, it will not happen overnight. We will not be drawing the lines on the map or writing the provisions in the statute book of this State to define them overnight. It will take time.

This legislation is about finding a baseline. It is "ground zero". It is about finding a baseline from which we as legislators can move into the future to establish processes whereby we can move into a new phase of reconciliation and of recognition. It will not be smooth all the way. Indeed, even the ultimate destiny of this Bill may not be smooth. As we all know, any law passed in this domain is still subject to possible challenge in the High Court. Maybe the entire legislation will be subject to challenge. Maybe none of it will be. Maybe a part of it will be. We do not know. We as legislators certainly do not know ultimately, although we may have views. Indeed, my learned colleagues from the legal profession might know more about it than I do, and each of them might have a different view, but at the end of the day so be it. Nevertheless, this legislation represents a valiant attempt to establish a baseline from which we can move into the future in a positive way and simply recognises that those people have to be given their land in whatever way is suitable according to the circumstances of that block, that instance or that site.

This piece of legislation is before us at this point in history for another very important reason, that is, that the Federal Government has failed. The Federal Government—again a conservative Government—which has floundered through its own shallowness and self-interest, has ultimately abrogated responsibility for dealing with this issue. It has floundered, leaving us to fill the gaps. We as a State Legislature must get on with establishing our own base and with filling the hole that the Federal Government was neither capable nor willing to fill. It was not prepared to get on with it.

It is now for us to act properly and to get on with the job of starting to regularise these relationships. Indeed, I congratulate the Premier on his approach to attempting to establish a sound footing in this respect. He has done so by bringing together all of the groups, for the first time ever, to join the Government in developing a process that everyone can live with.

We have already heard from the honourable member for Sandgate today. He is a proponent of this approach, and I agree with him that it is the only way to bring people together, to bring the various interests together. I do not care how long we have to lock the parties up in a room together, but that is what we have to do. We have to bring those parties together and force them to find a solution, and I do not think we will have to force too hard. Developments with the Cape York Land Council and agreements that have already been forged or that are in the process of formulation in the north already

indicate the goodwill on all sides that is possible, and I congratulate those people on moving in that direction.

The success of those groups in that respect is counterpoised only by the obvious antagonism and antipathy shown by the conservative side of politics towards them. The member for Surfers Paradise and his colleagues—the people I mentioned before, who figure well in the pecuniary interests register—hated that agreement. They hate the sight of those parties coming together and reaching agreement. They cannot stand it, because it is diametrically opposed to their position, which is, "Let's get down and draw the line on the map now and see what we can greedily get away with. Let's hope then it won't get challenged in the High Court." That has been their approach.

There are two very distinct approaches to this issue in Australian politics today and I am very proud to be on this side of the House in this debate, in supporting this Bill before the House, because in doing so I can proudly say that I am part of that approach which seeks a conciliatory outcome into the future—an approach that is founded very firmly on a belief in reconciliation in this country. Ultimately, true reconciliation in this country can be founded only upon a very peaceful approach to establishing clear land rights and entitlements for the indigenous peoples of this country.

We do not have to look very far to really understand what those connections to the land are. If we look at the papers associated with the two famous cases—the Mabo decision and the Wik decision—we see that those court cases are well peppered with references to and documentation about the very significant anthropological connections of native people with the land. That is something that many of us coming from Anglo-Saxon/Celtic backgrounds have huge trouble appreciating. We can only talk to people and read literature to try to appreciate what those connections are. Throughout the culture of those peoples there are clear references and connections in a very spiritual way to the land. Those are things that we must respect and they must form the basis of the future relationships that are established not just between people and the land but between people and people in this country. I support the Bill.

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