



Speech by

GARY FENLON

MEMBER FOR GREENSLOPES

Hansard 10 November 1998

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

Mr FENLON (Greenslopes—ALP) (9.37 p.m.): I rise in support of the Bill, which sets up a State-based regime to manage mining proposals on land where native title may be found to exist. Over the next 12 months, further Bills will be introduced establishing a land and resources tribunal, a native title process for the petroleum industry and a new system for the protection of cultural heritage. The issue of native title is extremely complex and involves a wide range of stakeholders. We could say that the range of permutations and combinations of the various levels of previous occupancy and forms of ownership and occupancy under western settlement is astronomical. There are many permutations and combinations throughout the country and, indeed, throughout this State. In order to consult effectively with all stakeholders, it has been necessary to divide the issues across a series of Bills to go before the House.

The next Bill, covering the land and resources tribunal, should be introduced next week. That Bill will flesh out the details of the tribunal to which this Bill refers in various places. Indeed that tribunal will perform an extremely important function, that is, to resolve those issues, to resolve sometimes very complex and conflicting issues and to do so in an expeditious way in order to get on with development and job opportunities in this State. The application of native title processes to the petroleum industry involves special consideration because of the differences between that industry and the mining sector more generally. For example, exploration for petroleum is a more significant event than it normally is for mining. Petroleum exploration can involve test drilling, which has as large an impact as a drilling rig itself.

Once an authority to prospect for petroleum has been granted, there is an automatic right to receive a production licence if a resource is discovered. That is in contrast to other mining where a further approval is required if resource extraction is proposed. The petroleum industry has expressed a preference for native title issues to be addressed fully at the exploration stage. Members will note that that contrasts with the mining provisions currently before the House, which place more emphasis on the production stage. Currently, the Petroleum Act is the subject of a comprehensive review. We have agreed with the industry to incorporate into this review consideration of appropriate native title processes. The Petroleum Act review will continue well into next year before amending legislation is presented to the Parliament.

The current provisions of the Cultural Record (Landscapes Queensland and Queensland Estate) Act are indeed anachronistic and in urgent need of overhaul. The definitions of what constitutes cultural heritage are ridiculously low and leave unprotected many significant elements of our heritage. The procedures for obtaining cultural heritage clearances are vague and open ended, making them ripe for abuse. All parties are strongly supportive of a complete rewrite of the Cultural Record (Landscapes Queensland and Queensland Estate) Act, and already a reference group has been established to undertake that task over the next 12 months. The reference group consists of representatives from the indigenous communities; the mining, petroleum and pastoral industries; and other citizens with heritage expertise. It is hoped that a discussion paper will be released before Christmas with the aim of developing new legislation for introduction to Parliament in the second half of 1999. Cultural heritage exists across all tenures so it has a greater potential to be an issue in development applications than native title. That is why it is vitally important that Queensland develops a

sensible system that respects our heritage while providing clearly defined processes for developers to resolve cultural heritage issues.

That is in stark contrast to what we have heard today from the Opposition. We have heard from them one very dismal position, which is basically one of being against negotiation. Why are they against negotiation? Because they do not want equitable settlements. Equitable settlements are what comes out of negotiation. If we do not have negotiation, what is the alternative? To have arbitrated outcomes, bogged down in courts indefinitely. What do we have out of a negotiated settlement? Reasonable outcomes that suit both parties: where both parties can become finely attuned to each other's needs and achieve a specific result that is appropriate to the local circumstances, to a specific set of facts and to a specific environment. I am very proud of the fact that the general thrust of this legislation is towards negotiation because I believe that, given the time frames that are built into this legislation, the parties will move towards establishing goodwill and sound, negotiated outcomes.

The other thing missing in the debate from members across the Chamber is honesty. We have not seen from the members opposite a real declaration of the interests that they represent. We would respect them more if they did that. Some weeks ago in this House when we last debated native title amendments, the members opposite became very sensitive when I suggested that they really represent people such as themselves, their members in their own party and the people in their electorates who have very significant economic interests and favour the landowners, the pastoralists and, to some extent, the mining companies. The interests of the members opposite really sit very firmly with those pastoralist/leaseholder interests. That is fine. We can understand people having those interests and representing them. However, it is dishonest for the members opposite to come into this place and throw up all forms of smokescreens to avoid recognition of the reality that they are simply here to represent and stand for those economic interests.

I refer to the smokescreens that we saw today from the Leader of the Opposition in terms of his unhealthy obsession with Mr Murrandoo Yanner. I would like to do a word count on the speech of the member for Surfers Paradise to find out how many times he mentioned that person's name. We might ask why the Leader of the Opposition is so obsessed with one person out of all of the indigenous people in the State who have been engaged constructively in native title issues. Why would the member for Surfers Paradise be so obsessed with this one person that, every time he gets the opportunity, he mentions him in almost every sentence? Why the unhealthy obsession? Because it is part of the Opposition's general smokescreen to discredit the interests of the indigenous people of this State who are trying to properly and constructively move forward on the native title issue. Indeed, it is a great smokescreen against what they are really about, which is representing very particular, very narrow economic interests. That is what has really happened in this debate. It is time that we had a little bit of honesty. We will respect the members opposite if we see some more of that honesty.

Mr Borbidge: What happened to jobs, jobs, jobs?

Mr FENLON: I am glad that the member for Surfers Paradise mentions jobs, jobs, jobs, because that was the next issue to which I was going to refer. By anticipating my speech in this debate, at least he is showing some vision. During the two and a half years of the National/Liberal Party Government, what did we see? We can scour the Hansard, we can scour the Queensland statutes, but what do we find? Absolutely nothing! Not a skerrick, not a movement, not one iota of doing something constructive about changing the law. Not a thing!

Mr BORBIDGE: I rise to a point of order. The honourable member is obviously aware that the then Leader of the Opposition moved a motion in this House that prevented us from doing so.

Mr FENLON: The Leader of the Opposition had all the scope in the world to move. He had the numbers in this House, yet he did not even try.

Mr Borbidge: You weren't here; you were on sabbatical.

Mr FENLON: Indeed, I was on sabbatical. When he was in Government, the Leader of the Opposition did not move. Over that time, all he did was knock, knock, knock. The Opposition, when in Government, did not do anything to really try to move forward this issue. Indeed, what possible respect could the Leader of the Opposition have in this House when all he wants to do is take his belligerent line and knock the indigenous people of this State and favour very narrow sectional interests. No wonder he receives some opposition in this House. If he came here with some sensible suggestions, he might be received well. But no, he retained his belligerent approach, he put up the smokescreens and he knocked one individual in the Aboriginal community as being representative of the entire Aboriginal community. That was his approach and he wonders why this House does not have a favourable attitude towards him and, indeed, he wonders why the coalition lost the last election. The people of this State do not want such a confrontationist approach. The people of this State whom I represent want to see these issues worked through in an amicable, agreeable fashion, and that is what this Government is doing.

Mr Seeney: How many claims in your electorate?

Mr FENLON: I do not know. Getting on with this legislation means jobs and it means getting results. Members opposite would certainly not have achieved that in a month of Sundays, because all they wanted to do was confront, confront, confront to protect those interests. They wanted to ensure that the people of Queensland would probably be paying for those interests. They would still be leaving the door open to compensation claims by denying native title. Indeed, throughout this debate members opposite have been asking who pays. Under their confrontationist, winner-takes-all solution, we would have been paying. That solution was not workable and it would not have worked in 100 years. This Bill proposes something that will work, because it is founded on fairness and negotiation. There will be outcomes and, therefore, we will be able to get on with development and job creation. The coalition's solution did not provide any prospect of achieving job creation, and that is the real difference between this legislation and any dream that the members opposite might have had.

In the broad context of this debate on native title, a much wider range of issues should be considered in terms of the indigenous people of the State. I refer to the issues that have recently gained prominence in the newspapers concerning the general welfare of people in indigenous communities, particularly in light of abuse resulting from alcoholism. I join with the Minister for Aboriginal and Torres Strait Islander Policy in welcoming that debate. It is certainly long overdue and will hopefully expose what has been going on within those communities. Sadly, that debate has not yet developed into a more constructive process that offers solutions. We have to find better solutions to help the people in those communities realise their rights in a broader environment, as well as their land rights in particular.

I welcome the suggestion that centres be established to help the communities develop and enhance their own cultures. In that sense, we should assist those communities to build from the bottom up. Only by building and rebuilding their cultures, their way of life and their values can those people establish their lives and avoid the horrors and the traps that confront them through alcohol abuse. I hope that the journalists who are looking at those issues will turn their attention to such things as the role of wet canteens in the communities. Some rather strange anomalies have developed in our society. For example, an individual who has been evicted from a hotel can sue the publican for damages that might result from being hit by a car on the way home.

Mr Lucas: A little bit is happening about that in the courts recently.

Mr FENLON: Indeed. That seems to be at odds with the prospect that individuals can run a canteen that basically destroys the social and cultural fabric of a community. I hope that someone is thinking about the ownership of those canteens, how they are run, the economic interests that are served by them and how the profits of the canteens are calculated and returned. We really need to examine the way in which the communities are working. We must look very critically at such factors and, more appropriately, we must help those communities to create centres that will enhance and reclaim their cultural heritage. Only in that way can those communities move forward. It is not appropriate to talk about complete prohibition within the communities. We must take a completely different approach that focuses on the management of consumption in order to empower the people of the communities to move towards a greater sense of autonomy and a greater control over their own lives.
