LEGISLATIVE ASSEMBLY
QUEENSLAND

Speech by

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS BILL

Mr HOBBS (Warrego—NPA) (5.46 p.m.): It is a pleasure to speak on the Native Title (Queensland) State Provisions Bill. I have been involved with native title legislation for a very long time.

Mr Palaszczuk interjected.

Mr HOBBS: I am sure that the member for Inala recognises the important role that land titles play in Queensland and Australia. As the former Minister for Natural Resources, I had an extremely difficult time because, for the first time in Australia's recent history, we had to face a situation whereby the tenures we were issuing were coming under close scrutiny. There was a possibility that a tenure which was issued could have been invalid. Tenure is important and I had to make sure that the t's were crossed and the i's were dotted. I had to freeze a lot of categories of tenures. That action did not go down well with a lot of Queenslanders. I was not pleased with it myself. It was one of the harder decisions I had to make. What I did was acknowledged and supported by the Federal Attorney-General and the Prime Minister of Australia.

That was the turning point. This occurred in January and people had to be brought back from the beaches. They recognised that we had a serious problem. Some States, including Western Australia, have a different system from that which operates in Queensland. In Western Australia, native title is, in many instances, part of the existing land tenure. In Queensland we believed very strongly that native title had been extinguished by the original issuance of pastoral leases and perpetual leases. Since then the High Court has determined that some pastoral leases had not extinguished native title.

The Federal Government has put together a 10-point plan which has been approved by the Senate. Today in this legislation we are looking at only two of those 10 points. We have a long way to go. We need to ensure that we understand fully the issues facing us.

The uncertainty is still there. The legislation has been approved by the Senate, but as yet we do not have a State legislative plan that deals with all the issues that are important to us. Over the years the relationship between black and white and black and black has become more strained. I suggest to honourable members that the relationship between Aboriginal peoples themselves has become worse because of uncertainty and because of white carpetbaggers who were trying to get land for these people. The land was just not available. Representatives of many of these groups came to see me. I just shook my head. It was manna from heaven for some of these people. It was a shame. All they were doing was giving hope to these people that perhaps some time down the track they would receive some land.

The Queensland system of various tenures is interesting. History reveals that it was quite clear that we had in Queensland a system which we believed very strongly extinguished native title. The legislation before the House still has not accepted what the Senate has put in place for us. Native title has been extinguished. But as the member for Callide said, the Labor attitude is that native title has been suppressed. That is not the case at all. Native title has been extinguished. So all the Premier is doing is dragging out the issue even further. I do not believe that is reasonable. All he is doing is continuing the uncertainty—uncertainty that we do not want. We do not want uncertainty for anybody. As I said, this makes it even worse for Aboriginal groups themselves.

Let me tell honourable members about what happened in my electorate. I refer to the gas pipeline from Jackson to Moonie. The most responsible group of Aboriginal people I have ever met were the Gunggari people of Mitchell. They had a great working relationship with the local authorities, other people and myself. They even invited me to open the Yumba. We have a great relationship, and it is still good. However, eventually those people were incited by a few outsiders. They were camping beside the road and blocking the pipeline. The issue was always in the news. It was outrageous, quite frankly. I believe that the elders were manipulated—perhaps pushed to one side by other people. Some people had good intentions of trying to help. But then, of course, there were the white carpetbaggers who were picking up their few pieces of silver. That very responsible group ended up standing in front of bulldozers and trying to block the pipeline from going through. That was very irresponsible.

The legislation before the House deals with a few aspects on which I would not mind expanding. Most provisions of the Native Title Act were to have commenced by 30 September 1998. Mr Beattie, the Premier, has released a Native Title Strategy for dealing with these issues. Native title is a very difficult issue. It would have been better if more issues in the 10-point plan could have been dealt with. Only two of those 10 points have been implemented. The Government set up the indigenous working group to try to get through the rest of those points.

How long does this issue have to drag on? It has been debated long and hard in the Federal arena. I do not know whether there is much more that anyone could really drag out of this. How far can they go? We have had all sorts of delays, political issues have arisen, and other matters have been taken to the Aboriginal Land Tribunals. All the issues have been raised. Will there be anything further that that group can put together? I accept that the Premier got the group going, but perhaps the time frame could be tightened up to try to speed up the whole process. We need to be able to move along a bit faster. The right to negotiate is an issue about which members could speak for probably three days. But how much more do we need to talk about this to realise that we do not need to go over these issues again?

The other points that need to be made in relation to native title vary. The experience in the Northern Territory provides living examples of what not to do in many instances. The member for Crows Nest is in the Chamber. He and I went to Darwin to consider native title issues when this matter first arose. We found that the Northern Territory had already experienced many of the things that we are now experiencing. One has only to consider what happened with the stock routes system and the upsets that occurred in many sectors, particularly in relation to land tenures. A land tenure is the most important document to people who own land. In a sense it is their bank account. But if that land tenure is not secure, then it is not worth having. So we must ensure that any land tenure documentation is valid. What occurred in the Northern Territory provided a very interesting example of how people thought that they had secure tenures, but they did not. They had to go through a whole new process to determine who could or could not use some of the land. In fact, the Aboriginal people as well as the pastoralists in the Northern Territory were quite blatantly disadvantaged.

This legislation before the House refers to intermediate period acts. I know that we do have to validate these things because, in good faith, Governments do issue permits and documents, and we really do need to be able to ensure that they are correct. Category B intermediate period acts extinguish native title to the extent of any inconsistency between the act and the continued existence of native title. If that act is only partly inconsistent with the continuation of native title, then the act will only extinguish native title to that extent. Members should understand that this legislation is the right thing and the best thing to do under the circumstances.

A category B intermediate period act is the grant of a lease that is not a category A intermediate period act. This refers to mining leases, a lease granted under legislation that grants such estates or leases only to or for the benefit of Aboriginal people or Torres Strait Islander people, or a lease granted to a person to hold on trust for the benefit of Aboriginal or Torres Strait Islanders. Those are some examples that demonstrate that what we are doing tonight is the right thing to do. Other examples of a category B intermediate period act include the grant, between 1 January 1994 and 23 December 1996, over former pastoral lease land of a non-exclusive pastoral lease. A non-exclusive pastoral lease is a pastoral lease which neither confers a right of exclusive possession over the land or waters the subject of the lease or is a scheduled interest for the purpose of the Native Title Act. One of the most important issues, which I do not believe we have resolved in this legislation before the House tonight, is that of water.

Mr HOBBS (Warrego—NPA) (11.31 a.m.), continuing: Further to my contribution to this debate last night, I was disturbed to see an article in today's Courier-Mail containing comments by the member for Ashgrove, Jim Fouras, and legal adviser Walter Sofronoff. The article pushes the view that grazing homestead perpetual leases do not extinguish native title. That is absolute rubbish, and I want this House to be well aware that that is the case.

This is absolute blackmail. The Government is saying that it will challenge the inclusion of grazing homestead perpetual leases if it does not get its way on native title. This may even relate to the balance of the eight points of the 10-point plan which are still to be formalised. The core view of the

Labor Left in Canberra is to oppose the 10-point plan—particularly that grazing homestead perpetual leases are not a grant of exclusive possession but a mere bundle of statutory rights, that is, to graze cattle and that type of thing. The core Labor Left have been saying for quite a long time that native title has, therefore, only been suppressed, not extinguished. That is wrong, wrong, wrong. The Federal Parliament and the Senate have approved that a grazing homestead perpetual lease is a grant of exclusive possession. In fact, Sir Gerard Brennan, the Chief Justice at the time of the Wik case, agreed with that proposition.

I believe that the Premier has been very unwise to make statements outside this House to the effect that we are extinguishing native title on pastoral leases. That is not the case. Deemed common law stated that native title never existed on grazing homestead perpetual leases. So the Premier is giving encouragement to the likes of Mr Sofronoff, who could be described as a native title ambulance chaser, one of that growing band in the legal profession who are more interested in personal gain than the good of the whole community. In some cases——

Mr Fouras: That's disgraceful.

Mr HOBBS: I will come to the member in a minute. In some cases, they put their views above those of the people they purport to represent. I talked about this issue last night. I have seen numerous examples of people being manipulated—being used by people like that to try to get things that they know they can never get. All they are doing is giving them hope and creating division within the community—division between black and white. That is disgraceful.

The warning to all Queenslanders is that blackmail is entering into this native title Bill and future similar Bills that will come into this House. The Government is saying, "We will be challenging grazing homestead perpetual leases unless you give in on the rest of the eight points of the 10-point plan." I will give honourable members an example of what happened at the Ernest Henry mine. Mount Isa Mines negotiated, in cooperation with the Government, Aboriginal groups and the land councils, and they eventually got trucking contracts and other jobs out of that. But what happened? In came Charlie "Mr 15%" Perkins. He said, "You pay us $120m or you will cop a land claim." And guess what? They copped a land claim. That is the type of thing that is going to happen. Common law has made it quite clear that native title does not apply to grazing homestead perpetual leases. A perpetual lease is an exclusive tenure. I say to the Government: stick to your guns on this issue; implement the 10-point plan and be very careful in the negotiations in relation to the right to negotiate because, if not, you will have a massive fight at the next election.

I believe that the member for Ashgrove was used in the debate yesterday. He wears his heart on his sleeve, and he is an emotional sort of person. But he does not know the difference between pastoral leases and grazing homestead perpetual leases. A perpetual lease is a lease in perpetuity; it gives tenure. A pastoral lease is for a short term—maybe 30 years; there is no security, and one cannot make plans.

Another good example is what happened at Cape York under the Goss Government. People's lives were ruined because they could not continue with the use of the land. A grazing homestead perpetual lease allows a land-holder to build improvements and to know that future generations of his family can use it.

Time expired.