



Speech by

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

Dr CLARK (Barron River—ALP) (11.24 p.m.): Native title legislation has, without doubt, been the most difficult that Parliaments throughout Australia have had to grapple with. It has proved impossible to get agreement from all of the stakeholders—Aborigines, miners and pastoralists—because the positions taken by each group have just been so far apart. Queensland is no exception. Despite the fact that agreements have been possible in some circumstances—and here I am thinking of the regional heads of agreement in Cape York—it has unfortunately not proved possible with respect to either Federal or this proposed State native title legislation.

Despite failing to reach agreement between stakeholders, doing nothing was not an option. Decisions were needed and the decisions that have been made have tried to strike this balance between the competing interests, as various speakers have referred to tonight, and this is what the Bill before the House seeks to achieve. It is true that none of the stakeholders have got all that they wanted, but I believe there is a recognition that each party has, in fact, got some elements of their preferred position.

A view has been expressed tonight that somehow the situation has gone all the way for Aboriginal people and that the mining industry and pastoralists have been the ones who have been totally ignored and disadvantaged by the proposed legislation. I think it is worth while putting on record some of the comments, for example, by Terry O'Shane, the ATSIC commissioner and chairman of the Queensland Indigenous Working Group and a person whom I respect and admire and whom I regard as a friend. A statement was put out by the working group and was reported in Land Rights Queensland. I would like to refer to those comments. The article says—

"The statement said while there was no question that if the legislation was passed, Native Title rights would be lessened, the right to have a meaningful say in development and the impact on homes, children and communities was not totally removed.

'We will have a place at the negotiation table alongside government, the mining companies and developers, albeit a somewhat reduced and circumscribed place,' Mr O'Shane said.

'We welcome this important feature of this Bill and acknowledge the Government for including it.'

The statement said while the Bill reduced Native Title rights, it gave Queensland a modest but workable framework for dealing with mining project development and that would give more certainty and underpin the economic development of the State.

'This Bill will reduce the prospect of litigation and provide a mechanism for the resolution of disputes which hold up projects,' the statement said."

This statement is from a group of people who feel that their particular rights have been reduced in a major way, and yet they are prepared to recognise that there are still opportunities for them to be involved in the negotiation process and they are putting forward a constructive interpretation of events as opposed to some of the statements from the pastoralists and the mining industry.

In fact, the working group's final assessment of the proposed legislation will depend very much on the shape of the Queensland tribunal. I think it is worth mentioning that because this is going to be critical in the implementation of the legislation. The working group has made it clear that it believes the tribunal will need to be independent and will need to be headed up by a Supreme Court judge and

operate with District Court judges beneath that Supreme Court judge. I support this concept wholeheartedly and I look forward to seeing the further developments in relation to the form that this tribunal will take.

While the working group was not entirely happy with our Government's assessment of the situation, I would just like to share with members an assessment of Rob Borbidge's comments that were repeated here tonight in regard to legalised extortion as being a description of the legislation.

Mr Borbidge: They were the lady's comments, not mine.

Dr CLARK: The member opposite was very much endorsing them tonight, with respect. These are the comments from Terry O'Shane in an interview. He said—

"Rob Borbidge is just right out to the loony Right, they talk about the loony Left, well he's the loony Right. He's out on his own, out with the fairies. It's typical of his performance, that response. He's a man of no substance, and the comments reveal the lack of depth to the man, who should never have made it to be Premier of this State, because he never ever had the ability. The fact that he did is a simple reflection of voting circumstances. I don't pay him any regard whatsoever, it's politics and cheap political point scoring."

Those are his words, not mine. I think they do underscore the point that there has been a lot of scaremongering and a lot of outrageous statements that have been made that really do not help in this debate.

I will not go over the details of the Bill, because I think many speakers have done that tonight. I do not want to bore the House with that. I will touch on why I feel the stakeholders—Aboriginal people, mining companies and pastoralists—are having such problems coming to an agreement and why we as parties in this House have such difficulty with this issue. To my mind, it goes essentially to how we view the occupation of this land by indigenous people, which goes back conservatively 40,000 years. I think the difference here is that people such as me and many others on this side of the House believe that having that kind of occupation for that length of time actually does then bring with it some rights—that there actually is a difference between a continuous occupation for 40,000 years and a recent arrival, such as we have experienced on this continent.

I am not saying that in order to take away from the people who have made their living on the land—I am talking now about since white settlement—and who have generations of contact with and a real commitment to the land, but I am saying that I believe there is a very significant difference. I am happy to recognise that there are some rights that attach to that—rights that have been recognised by the courts.

Mr Seeney: Because it does not cost you anything.

Dr CLARK: It is not a question of costing me anything. It is a question of recognising a reality, and I am comfortable with recognising that reality. There is also a question of history. The member for Tablelands said that he had studied history. I think it is important to recognise the points that he made tonight about there being nobody here to have treaties with.

Mr Nelson: I said there was no Government.

Dr CLARK: I think the point the member made is that it was not possible to have treaties. It certainly was possible, and it could have happened. The point that really needs to be made here is that if One Nation members are seriously and truly concerned about equality—and I believe some are—and if they really want to refute the accusations of racism in this House, then they should be concerned about equal outcomes, not equal treatment. They should be concerned about getting equal outcomes when it comes to life expectancy, child mortality, unemployment, health status and housing conditions. The debate we should be having in this House is about outcomes. If they sincerely want to achieve these outcomes for a fair, equitable society, then unequal treatment, and by that affirmative action, may be necessary. I ask them to reflect on that way of conceptualising Australian society.

I will reinforce that point and then move on. I will use a health analogy so that those opposite can see the point I am making. If there is one person who is anorexic and one person who is obese, we want both of those people to have a healthy weight, but we do not treat them the same. We cannot advance this debate while we keep talking about equal treatment. From my contribution to this debate I would like to once again challenge One Nation members to be constructive as we all grapple with the disadvantage that we recognise exists in Australian society.

We have taken action in Aboriginal communities in relation to essential infrastructure such as water, sewerage and waste disposal systems. Just recently we allocated \$6m for Aboriginal communities and \$15m in the Torres Strait. I think we are taking practical initiatives in those areas. I look forward to the support of One Nation members for constructive solutions to deal with these issues. I would have thought the most constructive approach would be to recognise that negotiation with indigenous people must be the cornerstone of those practical solutions.
