



Speech by

Mrs E. CUNNINGHAM

MEMBER FOR GLADSTONE

Hansard 25 August 1998

NATIVE TITLE (QUEENSLAND) STATE PROVISIONS BILL

Mrs LIZ CUNNINGHAM (Gladstone—IND) (3.46 p.m.): This Bill is one of the most challenging before our community today. I think the time that the Federal Government took to work through the issues and the amount of antagonism, disagreement and consultation that occurred to come to some formulated result indicates how difficult it is to balance the care, responsibility and connection of Aboriginal Australians to the land with the rights of second and third generation Australians who have had family farms. I find it very difficult to balance the two to ensure that there is justice and equity for all those interested groups.

I do not intend to speak for very long on the Bill; however, I have a couple of questions for the Premier. I believe that the Indigenous Working Group circulated some questions and information to most parliamentary members. There are a couple of issues arising from that document that I wanted to canvass with the Premier. A couple of groups approached me wanting the debate on this Bill to be adjourned. I ask this question with some trepidation, because I think the Leader of the Opposition may call up the hosts to run over my body if the Bill were delayed. However, given the amount of time spent on and the complexity of the Federal Bill, some concern was expressed that this Bill was introduced to the House so soon after the Federal legislation. Some groups wanted some additional time to properly understand the implications of the Federal Bill and to consider what is being called up on a State level and what additional work is being done by the Queensland Government to fully or more capably represent their concerns. I wonder on what basis was the Bill brought forward at this time as opposed to allowing a little longer for discussion.

I thank the Premier for the briefing that he was able to organise on this proposal, because I received clarification on quite a number of the issues that Mr Pearson raised with me. However, there are a couple of issues that I want to canvass. One of the challenges of this issue is the fact that, over time, Federal decisions were made and High Courts reviewed those decisions and altered them. The Government then acted on the basis of the High Court's decision in 1992, which subsequently was changed substantially in 1996. The decisions post 1992 and pre 1996 were made in good faith. Leases were issued in good faith on the basis of the decision that had been handed down. Unless legislation like this is passed to give certainty and comfort to those who have leases, another significant part of the community is left in a very uncertain position.

I support and thank the Premier for the Bill, which retrospectively gives certainty to the leases that have been issued in that interim period. Mr Pearson was concerned that the Bill would not only extinguish native title on some leases but also that it would extinguish native title on grazing homestead perpetual leases. He wanted those excluded from the Queensland schedule although they were clearly included in the Commonwealth schedule. When I asked for some clarification about that—and again I thank the advisers for their forthrightness—it was explained to me that, in relation to the GHFLs and the GHPLs often the decision was made by applicants for one or the other tenure not on the basis of what that tenure provided for them in the area of land use or certainty but on financial grounds. That significantly affected their decision quite some time ago as to the type of lease that they were going to accept from the Government. As those advisers explained it to me, I am quite comfortable with the fact that the GHPLs will be included.

One of the reasons for the request for the homestead perpetual leases to be excluded is that some leaseholders are still keen to negotiate native title access to communities in their region. I put to the advisers whether, if the grazing homestead perpetual leases are included in the schedule of this Bill, that will preclude leaseholders and the indigenous community continuing with their negotiations. It does not. It has an impediment, and that is that the arrangements attach only to the property for the current leaseholder and one subsequent leaseholder and that it would have to be renegotiated after that. However, there is really no impediment to leaseholders negotiating with local community and Aboriginal groups to allow access to their properties for traditional and cultural purposes.

The other issue that Mr Pearson raised was that this Bill should be deferred until the Commonwealth Government and the Queensland Government clarified and placed beyond doubt the compensation and cost-sharing arrangements. In seeking clarification from the Premier's advisers about that, I was advised that whether or not the Bill is passed will not alter the negotiations at all. Certainly, the people of this State would be looking to the Commonwealth for a significant proportion of the compensation that will be payable.

Mr Borbidge: 75/25.

Mrs LIZ CUNNINGHAM: That is right. However, Mr Pearson argued that if this Bill is passed those levels may be renegotiated and our bargaining position would be weaker. I am advised that it will not alter. So that particular argument for deferring the Bill——

Mr Borbidge: It was signed off by COAG.

Mrs LIZ CUNNINGHAM: I thank the Leader of the Opposition. Last week ANTaR met with me seeking a deferment of this Bill's passage through the House. Again, primarily that was because of the grazing homestead perpetual leases and the exclusion of those leases from the Schedule in our Bill. On the basis of the advice that I received today from the Premier's staff, those negotiations can continue. They are not in any way impeded by the passing of the Bill, and I will be supporting it.
