



Speech by

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MEMBER FOR MOGGILL

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STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION AMENDMENT BILL

Dr WATSON (Moggill—LP) (Leader of the Liberal Party) (2.30 p.m.): I rise to support my colleagues in opposing the State Development and Public Works Organisation Amendment Bill 1999. It was interesting to listen to the contribution of the member for Logan just before the luncheon adjournment. After listening to him, I have to congratulate him on, in many ways, succinctly analysing and developing the aspects of this Bill that reflect the increase in the efficiency of the bureaucratic process in the acquisition of land and in trying to get through the environmental impact statement process. There is probably no-one better than the member for Logan who can outline the benefits of this Bill in such a succinct way.

However, although I appreciate the efficiency aspect of the Bill and the fact that it will improve the process, in my opinion the member for Logan missed a quite fundamental point. For Opposition members, the essence of the Bill is what it does to fundamental private property rights. To the Opposition, private property rights are fundamental to the economic, legal and social system in this country. We regard fundamental property rights as an inherent part of an individual in a free society and in a free economy. The concern of the Opposition is that although, as the member for Logan said, this Bill may improve the efficiency of the bureaucratic process—in other words, the efficiency with which private property rights can be transferred from one set of private individuals to another via the use of the State—the fact is that this Parliament has a broader and more important role.

This Bill is not simply about the issue of bureaucratic efficiency. If we believe in individual property rights, then we believe that if those rights are going to be expropriated and if they are going to be taken away by a bureaucracy, then there ought to be a transparent and public process by which that takes place.

Mr Slack interjected.

Dr WATSON: As my colleague said, we do that with the Forestry Act. I am not going to go through a tirade or an explanation of property rights. They have a long and distinguished history in terms of both philosophy and economic theory—from Locke, Mills and Adam Smith through to more recently, in terms of private property, Stiglitz, Becker and others at the Chicago School of Economics. However, I think that it is important for me to reiterate that property rights, more broadly defined than in this Bill, are fundamental to individual freedom and to our legal and social system.

Mrs Lavarch: You didn't think that way with native title rights, did you?

Dr WATSON: In actual fact, that is not true. However, I am not going to get into a debate on that aspect.

Fundamental property rights are critical to the distinction between a democratic, free market society and a collectivist society. In terms of individual freedoms, in terms of philosophical thinking, that is fundamental. However, just as importantly, property rights are fundamental to a market-based economy and we happen to be in a market economy. Property rights represent the ability of people to freely exchange their assets. They can exchange them for other property or their own services. Private property rights implies that the individual in our community has the right to decide how they use those property rights for their own benefit and for their own advantage including, as I have said, in terms of trade. We believe that once private property rights are recognised as being fundamental to individual

freedom and to a market-based economy, when the Government intervenes and removes those property rights from an individual, we have to be very concerned. When a Government does that, it strikes at the very heart of our legal, social and economic processes.

The Opposition recognises, as do other members in this place, that at times there are social benefits, there are public benefits that are paramount to private benefits. In those circumstances, we permit Governments, which are elected through a democratic process, to intervene in matters relating to private property rights. We recognise that there are instances in which the public good far outweighs the importance of the property rights to the individual. We accept that there are limited circumstances in which that occurs. The important thing to note is that, in the past, when that has occurred, it has usually occurred through the Government acting on behalf of the whole of the population of the State. When we override an individual's property rights, clearly we are doing so for the benefit of the whole of the population and there is a transparent public interest. That is the major problem that I have with this Bill.

I am going to examine parts of the Bill in a moment to show how I do not believe that this Bill is sufficiently transparent and open to public scrutiny. In fact, in many ways it tries to hide that public scrutiny process. The Opposition believes that it is very important that, if the State is going to remove the property rights from one set of individuals to another, the process is transparent and clearly established. That adds an extra layer of tests that any acquisition process should have to jump over. If the Government acquires land for a public purpose such as a road, clearly the Government is doing that for the benefit of everybody in the State. However, if the Government is going to acquire land for a road that is going to be converted into a toll road to be operated by private individuals, then that acquisition process requires another level of scrutiny. That is the reason why the Opposition believes that, if the Government is going to intervene in that way, there should be quite specific legislation open to public scrutiny and debate at the time that it is going to be used.

The problem with this legislation is that it is general legislation that allows the State to intervene without the public scrutiny process. As I said earlier, we recognise that there is a role for the Government to play. However, if the Government is going to play that role, it needs to be as public and as transparent as possible in our kind of democratic system. I will not discuss in detail the clauses of the Bill as I will leave that to the Committee stage. However, I will explain why there are problems with this Bill.

The Bill sets out the five steps that must be taken in order for private property to be acquired by the State on behalf of other individuals. They can be looked at in terms of hurdles. The first hurdle is set out in clause 12, on page 27 of the Bill. It states that an "infrastructure facility" includes roads, railways, bridges or other transport facilities, jetties, ports and so on. The problem is that that is not a restrictive definition. It is not a definition that says, "infrastructure facility" includes only the following ...". Instead, it says, "includes any of the following", but of course the definition is not limited to those examples because it is an inclusive definition and not an exclusive one. When one reads that list of possibilities, towards the end are some very broad criteria. For example, proposed section 78(5)(h) lists "a cable, antenna, tower or other communication facility". The question is: how will that definition be interpreted?

Mr Lucas: This has all happened because you privatised everything.

Dr WATSON: It has nothing to do with privatising. The Government is setting it up for that. I am telling Government members that they have to be very careful about taking away individual property rights for that purpose. It is not a question of privatisation. This is about taking private property, giving it to other private individuals and, in terms of the parliamentary process, hiding it from public scrutiny.

Proposed subsection (5)(i) refers to "social infrastructure", which is not defined but includes—only for example—"hospitals and schools".

Mr Elder: You're digging a hole.

Dr WATSON: This is not a digging a hole. The Minister wants to run around. We have already said that if this is going to be done it must be quite explicit in terms of the parliamentary process. The parliamentary process is about protecting the rights of individuals in our society. That is what it is built on. It is not only about improving the efficiency of a bureaucratic process away from public scrutiny.

The first problem is that the definition of "infrastructure facility" is so broad. The second step in the process is covered by proposed new section 78(1A), which defines public purpose. Firstly, it has to be an infrastructure facility and then it has to have a public purpose. One might think that that is a reasonable step in the process, but the public purpose is very broadly defined. It is defined as an "agricultural development"; it is defined as "community wellbeing". There is no specific definition of what "community wellbeing" is. It is defined in terms of economic growth and employment levels. I can hardly believe that one could propose any kind of infrastructure that would not meet the criterion of improving employment levels. The second step in the process, that it must be for a public purpose, is also so broad that in no way is it limiting.

Mr Lucas: You don't think there is a diversity of public purpose?

Dr WATSON: There is a diversity of public purpose, but "infrastructure facility" is loosely defined and "public purpose" is broadly defined. I am not quite sure what kind of infrastructure facility would not meet the definition of "infrastructure facility" and the definition of "public purpose" because they are so broadly defined. In addition, when one looks at the previous section——

Mr Elder: It is laid out in the list in the Bill.

Dr WATSON: Of course it is, and they are so broad that one could not get an infrastructure facility that did not meet those definitions.

Clause 12(2) of the Bill provides that the infrastructure facility must be of economic or social significance to Australia, Queensland or a region. Therefore, under the Bill the "infrastructure facility" is not narrowly defined and does not even have to have a clearly defined public purpose of State significance; it can be of regional significance. That is also an acceptable use of the Bill.

The third step is that one must meet the Coordinator-General guidelines, but we do not even know what those guidelines are. They have not been provided in any attachments to the Bill. Clause 13 provides that the Coordinator-General needs to lay them down, but they are not here in this Bill. We do not know what they are. There is a poorly defined infrastructure facility, a broadly defined public purpose, and Coordinator-General guidelines that have not yet been promulgated. Those are the first three steps.

The fourth step in the process is that it has to go to the Governor in Council to be gazetted. However, the gazetting is not a statutory instrument and it is not subject to disallowance in this House. It is only published in the Gazette. The member for Gladstone has indicated that she will move some amendments that will address that particular problem. She will suggest that it should be tabled and subject to disallowance in the process.

Mrs Liz Cunningham: It is not subject to disallowance.

Dr WATSON: I thought that if it was provided for by regulation, that regulation could be subjected to debate. If the amendment does not provide for a disallowance motion to be debated, then I do not think it improves the process. I was actually thinking about making it subject to disallowance in this place. At least at that stage, before the acquisition takes place—which is the important thing—it could be debated, even for a short period, and undergo some public scrutiny.

The fourth step is that it is gazetted and it goes to the Governor in Council, but it is still not subject to parliamentary scrutiny. As I said, this is about expropriating individual property rights, allowing the bureaucracy to be efficient in taking the property rights and not being subject to any discussion in this place.

Of course, the final step in the process is that it has to be tabled in the Parliament. However, the papers that need to be tabled in the Parliament are not tabled until the process is complete. Yes, the Parliament gets to know the details, but it gets to know them after the process has been completed, when of course it is too late, it is not subject to any debate and it is certainly not subject to any disallowance.

The problem that the Opposition has with this Bill is that, firstly, it attacks the property rights that people in a market economy and a free society such as Australia have as a fundamental set of rights. Secondly, we disagree with the ability to take those rights without any proper checks and balances in the process. Not only is it taking away people's rights, but it is doing so without any discussion, disallowance or argument in this place. It does not matter what else is said about the efficiency of the process, which may very well help Government directors-general and bureaucrats to get things done. The Parliament and our democratic process says that, while the process must be efficient, it must not take away people's fundamental property rights.

That sums up the concerns that I and a lot of members on this side of the House have with the Bill. That is why we will be opposing the Bill. After I look at the member for Gladstone's amendment in more detail, having received an elaboration from her a moment ago by way of interjection, we will decide whether or not we support that amendment.
