



Speech by

Mr M. ROWELL

MEMBER FOR HINCHINBROOK

Hansard 27 May 1999

STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION AMENDMENT BILL

Mr ROWELL (Hinchinbrook—NPA) (3.38 p.m.): I think credibility of Government is extremely important. In rising to speak on the State Development and Public Works Organisation Amendment Bill I would like to read out a letter which has been sent to the Opposition by the Queensland Indigenous Working Group. The letter is addressed to the Premier, Peter Beattie. The letter reads—

"Dear Premier,

I am writing to convey to you the Indigenous Working Group's strenuous objection to the SDPWOA Bill.

Your officers have informed us that the SDPWOA bill is scheduled for debate in the Assembly today. On behalf of the Indigenous Working Group I urge you to withdraw the Bill so that its insidious terms can be reconsidered in a proper process of consultation with all affected community groups.

In the period that we have been aware of the SDPWOA Bill over the past few days, the Indigenous Working Group has alerted your Government to some of the more obvious injustices inherent in the SDPWOA, and in the method of its formulation. Those issues included ..."

I will go through them. The letter continues—

"The SDPWOA Bill creates wide new powers in the Government"—

Government members interjected.

Madam DEPUTY SPEAKER (Ms Nelson-Carr): Order! Would honourable members please respect the speaker?

A Government member: That's hypocritical.

Mr ROWELL: Hypocritical? What is the member talking about? This is a letter that has been forwarded to his leader—

Government members interjected.

Madam DEPUTY SPEAKER: Order! Would the honourable member resume his speech?

Mr ROWELL: The letter states—

"The ... Bill creates wide new powers in the Government to take private land from individuals, not for any public purpose, but for the benefit of third party development companies."

The letter goes on to state further—

"In the words of the Parliamentary Scrutiny of Legislation Committee, 'this extension of the purposes for which land can be taken by the Coordinator-General will have an impact on the common law rights of landowners to the possession and quiet enjoyment of their land.' "

Mr Lucas interjected.

Madam DEPUTY SPEAKER: Order! Would the member for Lytton return to his usual seat?

Mr ROWELL: The letter continues—

"To state the issue more clearly, the ... Bill will operate as a caveat on every parcel of private property in Queensland.

A policy implication of the ... Bill is that private developers have an option to acquire anyone's property in Queensland, as long as they propose a significant infrastructure development on it, whether or not for the public benefit. Your Government is passing a law which subordinates the rights of private landowners to the rights of big business in this state.

If the ... Bill proceeds today, no one's land will be secure. This is not just a matter of concern for indigenous people. It should be a real concern to all Queenslanders.

It is not sufficient for you to respond that these days, governments contract out the building of public infrastructure to private companies. There is no requirement in the ... Bill to ensure that ordinary people's land will only be taken and given to companies for public purposes. As you know, this ... Bill extends to the taking of land for the private purposes of big business.

In formulating the ... bill, your Government has breached the Legislative Standards Act 1992 in a number of significant ways. Having regard to the matters referred to above, the Parliamentary Scrutiny of Legislation Committee has questioned whether the Bill has sufficient regard to the rights and liberties of landowners. The answer is, of course, that your Government has not had sufficient regard, or any real regard at all, to the rights and liberties of landowners. The Bill sacrifices landowners' rights in favour of big business.

The process by which your Government has formulated this ... Bill is secretive, misleading and also contrary to the provisions of the Legislative Standards Act. The Explanatory Notes to the ... Bill are, at best, misleading. Under the heading 'Results of Consultation', the Explanatory Notes read that 'the proposed amendments have been supported'. Your own officers, and in particular Ms. Robin Potter, have conceded us that there has, in fact, been little if any consultation about the Bill outside of Government. The 'support' referred to in the Explanatory Notes is in fact the support of your own Government, which proposed the Bill in the first place. This matter should be referred to relevant authorities for further investigation immediately. The ... Bill and its method of formulation, in particular the apparent breaches of the Legislative Standards Act, are reminiscent of some of the worst governmental excesses of pre-Fitzgerald Report Queensland. The Bill does you and your Government no credit.

I again urge you to step back from this Bill and allow due process to occur. If, as we suspect, the Bill has been developed by 'rogue' elements within your Government and without your full knowledge, there is still time for you to dissociate yourself from it in its current form.

I await your urgent response."

It is signed for Terry O'Shane of the Queensland Indigenous Working Group. I seek leave to table the document.

Leave granted.

Mr ROWELL: I think that it is extremely important that we take notice of what has been said in that letter, because it is quite apparent that a lot of what we have been told about the consultative process has just not taken place. I believe that it does the Government no good to be part of a process whereby it says that it is going out and negotiating with people over the arrangements that are made and then finding out that that is not the case at all.

I am firmly of the belief that the way of the future, if we want sufficient essential infrastructure for our society, is to facilitate private capital investment. There is no question of that. It will be only if private developers are prepared, either through BOOT schemes, joint ventures or whatever, to come into partnership with the State that we will be able to keep pace with the essential public infrastructure needs of our citizens.

In my area of shadow portfolio responsibility, it is obvious that the future of electricity generation will lie increasingly with the private sector. The challenge that all Governments face is how to encourage private capital but at the same time ensure that the overall public interest is protected. This Bill has a number of objects. Some of them create no problems and, in fact, should receive unanimous support. In common with others, I am a strong supporter of a proactive Coordinator-General. Over the years, major projects with which the Coordinator-General's office has been involved include the University of Queensland, the Tully/Millstream hydroelectricity project, the Riverside Expressway, the new Brisbane Markets and the Wivenhoe Dam and hydroelectric power station. A major, proactive, rolling Capital Works Program is essential if a State such as Queensland is to continue to develop.

However, this Bill goes too far in taking away the basic and very essential rights that our citizens have in the Government's desire to kick-start certain developments. This Bill will enable the Government

of the day and the Coordinator-General of the day to allow private sector proponents to enter private land and undertake all manner of activities and expropriate freehold land. After debating the Sorry Day motion yesterday, I find it ironic that the Bill also allows the extinguishment of native title claims.

Mr Welford: Which you opposed.

Mr ROWELL: That is right. It is evident that there was no value in what members opposite were trying to achieve yesterday. There is absolutely no value. I can tell the Minister——

Mr Welford: So you didn't want to stand up for them yesterday, but now you're pretending to stand up for them; is that right?

Mr ROWELL: No, that is not right. I would appreciate it if the Minister interjected from his correct seat. I can tell the Minister quite clearly that I employ a lot of Aboriginal people. They do extremely well and I support them to the hilt, which is probably more than he does.

For all of these things to occur, there are a few preliminary tests. Firstly, a company or consortium must come to the Government with a suggestion that it or they construct an infrastructure facility. That term is defined in a very wide fashion and is based mostly on a definition of the same term in the Commonwealth Native Title Act. However, it is considerably wider than the Commonwealth definition as it includes social infrastructure and spaceports. This infrastructure facility must also be able to stimulate a range of activities. Again, the Bill lists a range of matters that cover almost everything, including community wellbeing, economic growth, employment levels, industrial development, resource development, agricultural development and technological development. In other words, the Bill includes almost everything imaginable.

A further test in the Bill is that the infrastructure facility must be of significance to Australia, Queensland or the region in which the facility is to be constructed. I am certainly no lawyer, but even I can see very plainly that the inclusion of a reference to regions means that a development can fall within the terms of this Bill even if it is small and will have only a localised impact. In the context, say, of the far-west or south-west of Queensland, even a very small development would promote community wellbeing and economic growth.

When one looks at the triggers in this Bill, one begins to understand that the barriers created are not all that severe. The Scrutiny of Legislation Committee has highlighted that the decision of the Governor in Council to approve an infrastructure facility as being of national, State or regional significance is only by Gazette notice. In other words, this Parliament has no ability to review the decision. I think that that is a very important point. In addition, the decision of the Coordinator-General to expropriate private property is not subject to any checks and balances. The Coordinator-General's decision is not subject to any merits-based review. The decision is not subject to any disallowance motion by this Parliament. It is a sad state of affairs that the only attempt to put any protections against a misuse of the powers in this Bill is a statement that the Coordinator-General has to give which is tabled by the Minister. However, the Explanatory Notes state that commercial-in-confidence information will not be included.

It is not a very good situation when a Bill arms a public servant with the power to expropriate private property, denies property owners the right to challenge the merits of the decision and then deprives this Parliament of any realistic means of challenging it. Giving that sort of unreviewable and unchecked power to a public servant is bad policy and places the lives, livelihoods and lifestyles of many Queenslanders at the mercy of the Government of the day. I would have thought that by 1999 as a society we would have progressed a bit further than that.

The Coordinator-General can also authorise private developers to come onto private property to investigate its potential and suitability for the construction of the infrastructure facility. It is true that before the land is entered for the first time, the developer must give the landowner a notice outlining what authority has been given by the Coordinator-General, a general outline of the things intended to be done on the land and the approximate period of time the land is to be entered upon. However, that may well be cold comfort to the landowner as the Coordinator-General can authorise an investigator and associated persons to enter and re-enter land and, when on it, as stated in the Bill, to do anything on the land, bring anything onto the land and temporarily leave machinery, equipment or other items on the land. One can virtually do anything one likes, and that is very concerning for land-holders. They have to operate their properties. No doubt liabilities would be covered, but having machinery and equipment spread all over the place could certainly be a major problem. Can members imagine the disruption and damage that this could cause to some properties? There could be flooding and a whole range of things resulting from construction, and the land-holder may then have to take other courses of action. It is not too hard to realise that some people's lifestyles and quiet enjoyment could be destroyed.

At the end of the day, property owners cannot challenge the merits of the Coordinator-General's decision to allow a private developer to come onto their land. Most Queenslanders would say that this is un-Australian, and I would agree with them. What worries me is the wide scope of the Bill and the

enormous powers it gives to the Government of the day and the Coordinator-General. Personally, I am not opposed to the concept of the State assisting a private developer who wishes to build essential public infrastructure by means of access to properties and, if absolutely necessary, the purchase of needed properties. After all, it has been many decades since the Parliament first enacted legislation allowing the State to acquire, in a compulsory fashion, land for public purposes.

However, for most of us there is nothing more important than our own piece of dirt—our property. When the State comes in and invades one's property, especially for the purposes of private development, there has to be a range of checks and balances in place. Above all else, there has to be a bucket full of accountability measures. In this Bill, the bucket of accountability measures is almost empty. If we want to take a person's property for a private developer or series of developers, then that should be done by an Act of Parliament for everyone to see and for us to debate. At the very least, there should be separate motions put to us so that this Parliament can step in and prevent an injustice from occurring.

This Bill has none of those protections. It is very wide, very unaccountable and gives enormous powers to a public servant who was appointed without the position being advertised and without a merit and equity selection process, and who owes everything to this Government. Could anyone seriously say that the current Coordinator-General would exercise the unaccountable powers he is to be given independently, fearlessly and irrespective of the wishes of the Government of the day? I suggest to the House that if they did, they would be fooling themselves.

We are elected to support the ordinary people of this State. We are not here to look after the interests of every person who comes along with a bucket full of money and wants to start bulldozing other people's land.

A Government member interjected.

Mr ROWELL: Actually, I am glad that the member raised that, because I went out and had a good look at it.

Time expired.
