Speech by

Mr M. ROWELL

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL

Mr ROWELL (Hinchinbrook—NPA) (5.23 p.m.): Today, in rising to speak to the Native Title (Queensland) State Provisions Amendment Bill, in common with so many other Queenslanders I feel a profound sense of frustration about the fact that more than 12 months after the Beattie Government was sworn in it still has not delivered either a workable or fair package on native title laws for Queenslanders.

Last year, after many months of stalling and blocking tactics by the Labor Party and the Australian Democrats, the Howard Government was finally able to obtain Senate approval for a modified form of the 10-point plan legislation. It was as a result of the disgraceful tactics of the Federal Labor Party that the Federal Government had to go cap in hand to Senator Harradine and compromise the 10-point plan legislation to secure its passage. I would be the last person to rise in this Chamber and claim that the legislation that was eventually passed by the Federal Government was what Queenslanders needed. Although it improved the Native Title Act crafted by Michael Lavarch and Paul Keating, it is still a very cumbersome and complex piece of legislation.

Over the past five years, a whole native title industry has grown, and much of that industry is based on the fact that the Federal legislation is so long, difficult to understand and contains so many traps for the unwary that ordinary miners, pastoralists and claimants would need to stand in a queue to work their way through it. The complexity of the legislation is itself a major cause of the stagnation in the mining area, especially in respect of small miners. We are not talking about large multinationals with huge budgets and a team of lawyers and administrative staff; rather we are talking about small businesspeople whose margins are narrow and who do not have the logistical or material means for getting on top of the law. But the complexities of the native title Bill, the uncertainties that the current law creates and the time and cost it adds to the bottom line are all having a catastrophic effect on the mining industry.

Just a month ago, Preston Resources, which was trying to develop Queensland's biggest mining proposal—a $750m nickel and cobalt mine—walked away from direct negotiations with native title claimants and has gone to arbitration. The managing director of Preston Resources, Adrian Griffin, said that the only thing standing in the way of the project, which has a life estimated at between 50 and 100 years, was native title. It is a very sad indictment on the current state of the law that a project which could supply 3% of the world's nickel and 4% of its cobalt and which would create 1,000 jobs during the construction phase and a further 1,000 jobs on a continuing basis is left up in the air. The fact that the current native title regime has resulted in a stand-off which is preventing this project from creating jobs, wealth and opportunities for all Queenslanders, whether they be black or white, is a tragedy. This Government was elected on the platform of jobs, jobs and more jobs, yet from its industrial relations law to its native title proposals it is driving jobs and opportunities out of the State.

Right now, more than 1,200 applications for mining claims are stalled in the Department of Mines and Energy—proposals that would create jobs and give a much-needed boost to many Queensland regional areas. They are just gathering dust in Mary Street. The Premier claimed that he had a plan—a vision—that would solve the native title problems besetting Queensland. He promised that through negotiations and compromise he would cut through the barriers and kick-start mining projects. He even claimed that he had a staged vision to native title.

Instead, in July 1999 we still do not have in place comprehensive native title laws drafted by the Beattie Government. In fact, despite all of the talk, claims and self-congratulations, we still do not even have any new cultural heritage legislation in place—just half-baked discussion papers that really go nowhere. This Government has not even updated the outdated petroleum laws, despite the fact that the Northern Territory was able to do so in its comprehensive native title legislation package last year.

We see a Government that is simply dithering and in the process is being quite rightly attacked by people on all sides of this debate. It is richly ironic that this Government, which claims that it would be able to bring the indigenous parties into the equation and reach consensus by the establishment of the Queensland Indigenous Working Group, quite deliberately ignored and attempted to brush aside that group's views on the notorious State Development and Public Works Organisation Amendment Bill last month. I am sure we will all remember that.

This Government, which claimed that it would respect native title, passed legislation that will allow the State to extinguish claims when significant private sector infrastructure projects are at stake. If this Government believes that native title claims can and should be wiped off the slate when private sector infrastructure projects are being put forward to the Coordinator-General, I find it very difficult to understand why it has persisted with presenting this Parliament with alternative State provisions which are so complex and which will continue to place many barriers in the way of the mining industry.

I do not intend to use my time to go through the various aspects of this legislation which were passed last year and which form the basis of this Bill. Nevertheless, I do place on record my concern that this Government, despite being given the opportunity by the 10-point plan legislation to pass alternative State provisions that will actually facilitate the development of our mining industry, chose instead to add further barriers to this important industry. There is no doubt that the passage of any State alternative provisions legislation is better than just relying on the Federal Native Title Act.

However, it is profoundly disappointing that the Beattie Government—and I am pleased to see the Premier in the House—has added in this Bill extra barriers to the exploration and granting of mining permits that were required by the Federal legislation. The procedural rights proposed by native title claimants and holders regarding mining and pastoral leases and other non-exclusive tenures are more extensive than those specified under the Federal Native Title Act in at least three respects. First, the Bill specifies a three plus one month time period to become a registered claimant. Secondly, there is an obligation to negotiate. Thirdly, criteria are specified for the independent tribunal to consider.

Independent observers recognised that these provisions bring the procedural rights for mining on pastoral leases very close to the level of the right to negotiate. Even though the procedural rights granted for mineral exploration on leaseholder States are not as stringent, they are still significant. However, so-called "high impact" exploration permits are treated in the same way as mineral development licences, mining claims and mining leases, and the modified right to negotiate applies. As I mentioned, it is a matter of regret that neither this Bill nor the 1998 Bill deals with petroleum titles, and I would certainly like the Premier to comment on that. I hope that the Government gets moving and introduces legislation for this important industry.

The 1998 Bill was rushed in, and during the Committee stage the Premier moved some 160 amendments. The sort of amendments that were moved involved the following issues: the timing of compensation payments, compensation for native title holders who emerge at a later time, low-impact exploration activities, a provision that the State no longer had to be a party to an indigenous land use agreement, and objections by native title parties.

Under the 10-point plan legislation, the Bill, providing as it did for the alternative State provisions, had to be forwarded to the Federal Attorney-General for his determination and then be subjected to the scrutiny of the Senate. One would have thought that, having moved around 160 amendments, the Premier would have got it right. Instead, here we are more than eight months later debating essentially the same Bill, only this one is full of changes because the Commonwealth Attorney-General will not give a positive determination.

Mr Beattie: That's right.

Mr ROWELL: That is right. The Premier got it wrong. He did not observe what needed to be observed. He is a law unto himself. He wants to do what Peter wants to do. He cannot do it. The fact is that he has to comply, unfortunately, with a lot of what his people down there in the Senate wrote into that 10-point agreement.

Mr Beattie: You haven't got a clue.

Mr ROWELL: He does not have a clue, and it is proven here. There are another 90 amendments to the Bill that he has brought in now. He is absolutely incredible! I cannot believe it. I will go on, even though the Premier is certainly interrupting my contribution.

Instead, here we are eight months later debating this Bill. Why would the Commonwealth not do so? That is the important point. The Premier came into this House, tipped a bucket on the Federal Government, laying all the blame on it. He implied that the Commonwealth was being picky and

obstructive. The truth is that the Premier presented to this Parliament a flawed Bill. It was full of errors, and this one that he has presented now is full of errors because he is now presenting more amendments to it. Not only was it wrong from a procedural point of view, but it was also wrong from a technical point of view. It was a pathetic attempt and was quite rightly torn to pieces by the Commonwealth bureaucracy, and that is a very important point. The Bill was submitted to the Federal bureaucracy and they found that it was full of errors and inconsistencies and was unworkable in parts.

This Government and this Premier should be hanging their heads low. They have wasted almost 12 months. They were dithering while mineral exploration has stalled. The best they can manage is to try to pass the blame onto the very Federal Government that pointed out the problems with the second stage of the Beattie native title plan.

Now we have the Bill introduced again, and again we are presented with a raft of amendments. After all this time, the Premier and his Government still cannot get it right. All Governments can be forgiven for introducing a few procedural amendments at the Committee stage. In fact, that can be seen as a good Government because the relevant Minister is listening to the community and is prepared to improve the Bill or compromise on key points. But in this exercise what we see is a Government that again and again is getting it wrong. Again and again it is presenting to this Parliament Bills of the same subject matter that are full of errors.

The Beattie native title Bill must be causing many people to wonder whether our mining industry will ever be able to move forward. Not only are the procedural rights given to native title claimants too wide and vague, but the very legislation itself is full of mistakes and the Premier, despite three attempts, still cannot get it right. Last year the Premier claimed that only his Bill would be able to meet the test of State parliamentary approval, Federal Government approval and Senate approval. Eight months later, he still has not got beyond that barrier.

I would also like to put forward a range of points which are quite important to miners in this State, particularly the opal miners out in the Winton area. I am sure that the member for Gregory will be speaking about this. The Boulder Opal Association has been hit by the native title claimants out there for 1% of its gross proceeds. I think that is an absolute disgrace. It is blackmail.

A couple of months ago I visited the tablelands area. Many people up there—small miners, hardworking people—are doing it tough. In fact, very many of them actually employ Aboriginals. Their machinery is rusting. They cannot work. They cannot get the necessary approvals. The negotiations are very costly. Other considerations, such as the Environmental Protection Agency's requirements, mean that they are getting to a point where they will be forced out of business. Absolute frustration is creeping into that industry in north Queensland. I am certain that a lot of that frustration will continue after this legislation is enacted because there is no clear indication that these people will get a fair go. These hardworking people deserve better.

I also went to Century Zinc—a very interesting mine currently employing hundreds of people. Certainly, when the mine is almost ready for total production a large number of people will be employed. A great number of Aboriginal people are involved. The percentage escapes me, but I think it is of the order of 60%, and the Waanyi tribe is very strongly represented. They are doing a great job. The management sings their praises. The training they are doing at this time means they are competent operators.

I think these are the types of areas in which we can get people in these regions employment. If we have a regime of native title that will make things extremely difficult, those types of mines will not be going ahead, as we saw in relation to the Preston mine. Whether they are small or big mines does not matter very much. The point is that they generate dollars—mainly export dollars—for Queensland and they provide thousands of jobs. It is very specialised work. The equipment is big. Of course, quite a bit of understanding is needed about how to operate the equipment. These things are being done very successfully in very isolated regions of Queensland.

A sawmill may in the future be able to get started in Ingham. There is a large area of plantation forest there. One of the major problems being faced there is that the site of the mill will be on Crown land. The mill would employ in the order of 100 people as a result of tapping into a plantation resource of some 10,000 to 11,000 hectares of forest. It would be a major employer. There will be problems getting that mill going if native title issues prove to be difficult. It is just another hurdle that the developer, the person who is prepared to put the dollars into the operation, has to face. I do not think this legislation will overcome the problems they will have in that area.

Another concern involves people who have to negotiate under the right to negotiate provisions of the legislation. As I understand the legislation, when a particular lease is terminated the parties will have to renegotiate. I think this is a disgrace. If people have negotiated a certain position, they should not have to revisit it again and again. There is no real opportunity in this legislation to avoid the requirement to negotiate over and over again. There is a large group of people on this side of the House who have made a major contribution to this debate.