Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard 26 May 1999

NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL

Hon. P. D. BEATTIE (Brisbane Central— ALP) (Premier) (11.45 a.m.): I move—

"That the Bill be now read a second time."

It is with some regret that the Commonwealth Government insistence on technical purity has led me to bring back before this House a most crucial piece of legislation. This legislation remains an integral part of my Government's commitment to a comprehensive package of legislation dealing with native title in Queensland. It is vitally important that the final package will withstand the harshest scrutiny, and to that end I present the final set of amendments to ensure the Queensland alternative State provisions for native title comply with the Commonwealth Native Title Act.

I remind the House of the many hurdles that Queensland's native title scheme for mining has to overcome before the State's scheme can start to operate. Passage of legislation setting up the scheme was always the first hurdle. That has been achieved. As members would know, we have already passed three pieces of legislation through this House. The cultural heritage legislation will be introduced later this year.

Prior to passage of the legislation, and in the many months that have followed, Queensland officials have worked closely with their Commonwealth counterparts in the Native Title Task Force in the Federal Attorney-General's Department. This consultation has been part of the second hurdle. Members will recall that Queensland's legislation must obtain the approval of the Federal Attorney-General and, obviously, the Senate. As part of his decision-making process, the Federal Attorney-General is required, in most instances, to consult with native title representative bodies in order to gauge their views on Queensland's scheme. Once the Federal Attorney-General is satisfied that Queensland's legislative scheme complies with the provisions of the Native Title Act 1993 (Commonwealth), the Federal Attorney-General then makes his formal determination that Queensland's provisions comply.

Because of the complexities of the legislative scheme, 13 separate determinations are required by the Federal Attorney-General for Queensland's scheme to commence. Once the Federal Attorney-General has made his determinations, each determination is then subject to the disallowance process before both Houses of the Federal Parliament. Throughout the past months, officers of my department have been involved in an exhaustive process in order to ensure that the Federal Attorney-General makes the 13 determinations necessary—an exhaustive and, I have to say, frustrating process. This has resulted in perhaps the most thorough analysis of Queensland's mining legislation ever undertaken.

The Bill I bring before this House today does not move from the policy fundamentals inherent in the legislation that I introduced to this House on 21 October 1998. What this Bill does encompass are amendments considered necessary by the State to ensure that the requirements of the Commonwealth are met. To be fair, some of the changes which have arisen from discussions with the Commonwealth have improved the legislation by giving it greater clarity but have not changed the intent of the legislation.

I am, of course, concerned about the fact that it has been considered necessary to come back before this House with this Bill. However, as I indicated to the House during debate on the Land and

Resources Tribunal Bill in March this year, I am determined that Queensland's native title legislation stands up to the fullest scrutiny. I am not prepared to sit by and witness a never-ending cycle of amendments coming back before this House. Accordingly, I have written to the Federal Attorney-General to indicate that this Bill represents Queensland's best efforts in seeking to comply with the Federal legislation. I table a copy of that letter for the information of the House. I pointed out in that letter that I have continued to consult with key stakeholders throughout this process and that, upon passage of the legislation, Queensland will lodge a formal submission seeking the 13 necessary determinations in order to bring Queensland's alternative State provisions into effect.

As the Attorney-General is required by the Native Title Act 1993 (Commonwealth) to undertake consultation with respect to the majority of these determinations, it is not possible for Mr Williams to have a concluded view on the appropriateness or otherwise of the Queensland legislation prior to the conclusion of that consultation. Nevertheless, I have asked for Mr Williams to indicate in writing whether the Bill satisfies his legislative requirements in order for him to commence the necessary consultation. If there are yet further amendments from the Commonwealth, I have set a deadline of 8 June 1999 for any such suggestions to be communicated.

I would have preferred that these matters be resolved before the legislation came before the House. The Commonwealth did not cooperate in this matter. I want to make it absolutely clear that any delays in relation to the finalisation of native title are totally and solely the responsibility of the Commonwealth Government.

I take this opportunity to make the comment that the Federal Government needs to speed up the process of approving State native title regimes. The Howard Government threw the native title ball to the States and Queensland has picked it up and run with it—but the try line keeps moving back. There should be no doubt now that the Queensland native title provisions I developed comply with the Federal Act, and comply with my commitment to consult extensively with all stakeholders.

The mining industry and the indigenous community need a clear signal from the Commonwealth about the rules for dealing with native title. The Queensland Government has done everything in its power to fix the native title impasse. We have led the country in dealing with this problem. I stress that the only reason for delay has been the Commonwealth's tardiness in dealing with these issues.

It is vital for jobs and vital for reconciliation that Queensland is allowed to put into practice the fair and balanced regime that has been developed. After more than six months of negotiations we are only now in a position to introduce a number of amendments to that legislation without the likelihood of there being further changes. This is a clumsy and wasteful process which has been extremely frustrating to stakeholders, the Government and the poor suffering State and Commonwealth public servants who have had to wade through the detail.

In my view, the lack of finality arising out of the Commonwealth's behaviour is impacting on certainty in terms of investment and certainty in terms of jobs. Queensland has done its bit. It is about time the Commonwealth did its bit. The Howard Government established this process and it is incumbent on the Howard Government to make it work more efficiently than it has to date. I will not waste the time of this House in going through in minute detail each provision of this Bill because, as I mentioned at the outset, the policy format of this Bill remains consistent with that brought before this Parliament last year. However, I will again reiterate that what this legislation is designed to produce is a climate for consultation and negotiation between mining companies and indigenous Queenslanders unparalleled in any other State or Territory jurisdiction in Australia. Whilst some of the States are playing politics on this—one in particular—we are seeking a solution. While the Commonwealth says that it wants this matter resolved, that desire has not been followed through by action on the part of the Commonwealth.

This legislation produces a system that is fair—fair to the mining community in allowing a streamlined process for exploration, and fair to the indigenous community in allowing real negotiation before mining takes place on native title land. As indicated by my letter to the Federal Attorney-General, I am determined that the negotiations with the Commonwealth be concluded as quickly as possible so as to allow Queensland's scheme to be up and running at the earliest opportunity. I stress that it is not my desire to make any further amendments to this legislation. I hope no amendments will be necessary.

I should point out that the establishment of the tribunal, which was the subject of one of our pieces of legislation, will now have to be delayed as a result of the Commonwealth's tardiness in this matter. We were hoping that it would be operational from 1 July, but that now seems to be impossible because of the Commonwealth's tardiness. I set on record very clearly so that everyone in this State understands that the Commonwealth's tardiness in relation to the process and its unwillingness to deal with these matters as quickly as they should be dealt with have left this matter in abeyance for too long. It is not good enough. The Prime Minister promised a resolution in relation to these matters. I expect the Prime Minister to keep that commitment.

However, if the Federal Attorney-General's Department, in response to my letter, calls for further amendments to be made, and those amendments do not impact upon the fundamental policy considerations of this scheme, then I will move additional technical amendments in the Committee stage. As I say, that is entirely a matter that rests in the hands of the Commonwealth Government. Under the Federal legislation we are required to go through this process. Therefore it is in the hands of the Commonwealth Government to resolve these matters.

I should also put on record my continued appreciation of the constructive roles played by both the Queensland Indigenous Working Group and the Queensland Mining Council in the formulation of this Bill. I do not do that lightly. When I became Premier I established a process where, for the first time in this State, I brought the parties together. It took politics out of the matter. This Government took out the cheap points scoring which had been the hallmark of this debate until we came to office. We got the parties together. Those parties included representatives of primary industries in this State and the leaseholders involved. We resolved these issues in a constructive way. As I said, I put on record my appreciation. I have done that because those people played a very constructive role and they should be acknowledged.

I conclude my remarks by simply saying this: the ball is now in the Commonwealth's court. It is about time that the Commonwealth delivered. I commend the Bill to the House.