



Speech by

Hon. RUSSELL COOPER

MEMBER FOR CROWS NEST

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL

Hon. T. R. COOPER (Crows Nest—NPA) (4.07 p.m.): I do not take any pleasure in speaking in this debate. I like to participate in the parliamentary debate on many issues but, for the record, I state that I believe that the Native Title (Queensland) State Provisions Amendment Bill 1999 is a massive disappointment and a massive confidence trick that is being played on all Australians, including indigenous Australians who, along with the pastoralists and miners, have been the losers. I repeat a statement that has already been made in this Parliament: the Labor Party and the High Court, hand in glove, have foisted upon this country one of the greatest and most divisive follies ever seen in our history. I certainly look forward to the day when we can see some commonsense prevail and we can put all this rubbish behind us so that we can live in harmony together and everyone can get a fair go. I know we will get there one day, although we have to go through all this rubbish and, in the meantime, people will continue to be hurt, misled and confused. In addition, the legislation places a massive cost not only on the Aboriginal people but others as well. The only winners are the legal fraternity. They are laughing because the more of this rubbish that we pass, the more that is in it for them. The pointy heads, the legal eagles and the people who have dreamed up this stuff—

Mr Hobbs: Carpetbaggers.

Mr COOPER: Call them what you will. They are making a killing out of this, but their day will come and I look forward to being around to make sure they get their comeuppance.

Mr Santoro: What does it do for jobs, jobs, jobs?

Mr COOPER: It is only jobs, jobs, jobs as far as the legal profession is concerned. There are more snouts in the trough to bleed the country white. I hope that members will pardon the expression, but that is the way it is.

I believe that the High Court Wik decision was a disgrace. Most thinking Australians know that and have said so. They know that we could have lived with the Mabo decision until Paul Keating got his hands on it and imposed Labor Party policy on it, although he could not even get that right. He messed that up as well, which I think is a tragedy. We are left with the mess and again it will be up to someone, somewhere, sometime to clean it up.

I quote from the Leader of the Opposition, who spoke about what happened when all this started, because there is so much confusion surrounding the issue. I dare say that people from all sides of Parliament and certainly those in the community would not be able to explain the processes that people have to go through. People are utterly confused. Whether they are involved in the mining industry or the pastoral industry, they do not know which way to turn and it is causing a great deal of depression, division and hatred. All of that has been foisted upon us by a High Court that is filled with pointy heads who did not know what they were doing. They have imposed a decision upon the people of this nation that they should be ashamed of.

Mr Welford: Don't you have any respect?

Mr COOPER: Absolutely none. The Minister can call it disgraceful, but I have no respect for the people who have foisted this decision upon the nation. It has caused so much division, heartache, disappointment and tragedy. It is a cruel confidence trick that has been played on so many people,

including the Aboriginal people. Those people who foisted this upon us should be ashamed of themselves.

Mr Welford interjected.

Mr COOPER: Would the Minister like me to say it again? I am happy to keep saying it, because that is exactly how I feel and it is exactly how the majority of Australians feel. It is the few academic airy-fairy people who think, "Isn't this great?" It gives them a warm fuzzy feeling, despite the fact that they have made such utter fools of themselves.

The right of Aborigines to negotiate over mining was perceived in the 1993 Native Title Act as applying to land where no person other than the Crown had rights to the land. The presumption of the day was that the right would therefore apply only to vacant Crown land, nowadays called unallocated State land, because that was perceived to be the only tenure on which native title might have survived.

The right engaged procedural rights that were far in excess of the rights that any other Queenslanders has ever had in the context of mining on their land. That poses the question: why should Aborigines achieve rights far in excess of those available historically to anybody else? The answer is: that was as far as the Labor Party was prepared to go in 1993—towards the 1970s vintage policy of a full veto on mining for Aborigines. That was what Labor thought the metropolitan market would bear. That Labor policy is the genesis of the right to negotiate. That did not mean much in Queensland at the time of the passage of the original Act. Only a very small proportion of our State is unallocated State land, and the assumption was that the right to negotiate would rarely come into play in this State. As we know, the Wik decision changed that.

In the final analysis, the High Court's ruling in Wik was far more interventionist than the ruling in Mabo. The presumption in Mabo was that native title had been extinguished over the great bulk of the landmass by inconsistent dealings in the land by Government; that wherever there had been a grant of a title inconsistent with the continued existence of native title, native title was extinguished to the extent of the inconsistency. In Mabo, dealings which totally extinguished native title were said to be any dealings which granted freehold rights over land and most leasehold rights over land. In fact, the earliest views of the Keating Government were that even mining leases extinguished native title. In Wik, that view of exclusivity attaching to leasehold was reversed, to the extent that the long-established principle that a lease was a grant of exclusive possession that therefore necessarily extinguished all native title was overturned. Talk about inconsistency! This from the High Court—made up of different people then—which has since caused so much confusion!

We have seen all of the attempts made to repair the damage. The Premier made all sorts of promises about how strong and competent this Government would be; that it would put it all right and make it all work so that everyone could understand it. This sort of legislation is constantly being introduced into this place. There have been endless amendments. As I think has been said, there have been some 90-odd amendments, none of which anyone can possibly understand. Perhaps the Premier can explain a few of them, because we want to know how this legislation will improve the situation. As has been said, given the large number of amendments, the whole Bill should be withdrawn, cleaned up and brought back. As I said, it is a tragedy that this has to happen.

Most people, including some honourable members opposite, are sick and tired of the Premier's constant apportioning of blame to someone else. According to him, it is always someone else's fault. This Government has been in power for 12 months. It said that it would play merry hell with this legislation and fix it up. Of course, there is more confusion now than there ever was. It is no use blaming the Federal Government; it did the best it could do at the time with its 10-point plan. But the plan was constantly altered, delayed and mucked around with in the Senate by people who wanted to make sure that there would still be confusion. They wanted to make sure that there was as much confusion as possible so that they could blame the Government of the day.

The mess resulting from the original decision has caused the pastoral industry much pain. In many senses, this has crippled the pastoral industry. The process has been extremely costly and heart-breaking. Many people involved in the farming industry have experienced droughts, cyclones, floods, collapsed markets and falling commodity prices. Most of those things are either acts of God or beyond our control—for example, fluctuations in world markets. This rubbish is man made—Beattie Government made. It should never have happened.

There are some sound and practical people on both sides of the Chamber. However, the airy-fairy members are the ones who seem to prevail. They seem to think that they will never have to live with the consequences of their actions. They have brought in this sort of legislation and have carried on with these attempts to make it work. They know darned well that it will not. It is the people who have to live and suffer because of this whom I and other honourable members on this side of the House feel for. Not only will they have to pay out an enormous amount of money to sort this out; they will experience endless delays and confusion. Unfortunately, it also causes division amongst people.

The right to negotiate is an imposition that I believe sets black against white. I do not believe that there are any benefits for either side. Sadly, the vast majority of the population will be hurt and are hurting as a result of this. It is only a few who seem to see any benefits. Mabo meant that native title would apply to the 2% of the State that is unallocated State land. That is what that meant at the time. People could live with that. The Wik decision altered that to capture the 75% that is leasehold. That is a massive reinterpretation of the land law. A few academic socialists on the High Court brought about total confusion. I know that my voice might not carry all the way to the High Court, but I want to let them know about the damage they have done. As I said, tragically, there are no winners in this except those few.

Even the Scrutiny of Legislation Committee's critique is scathing. At point 6.7 it stated—

"The Committee notes that the Explanatory Notes do not clarify, on a clause-by-clause basis, the nature of the changes effected by each provision of the bill. The committee is therefore concerned that the Explanatory Notes do not provide the standard of explanation necessary to comprehend the changes effected by each clause of the bill.

The Committee requests information from the Premier ..."

Mr Welford: That is outrageous!

Mr COOPER: We all know that it is outrageous. Sadly, we have to live with this. The Scrutiny of Legislation Committee has got it right. As I said, there are honourable members on the other side of the House and on ours who find this all too confusing. One day the matter will be cleared up in the interests of all. It is unfortunate that people have to go through pain in the meantime. Even if this Bill is passed by the Parliament, it will cause confusion and will not solve anything. Again, both the ordinary Aboriginal people and the pastoralists have my total sympathy.

Mr Welford: They will work it out without your help.

Mr COOPER: They will not. How on earth will those two groups ever work it out? They know very well that the system will be working against them.

Mr Welford: You are happy just to fan the flames.

Mr COOPER: I am not. We should not have had this situation in the first place. However, we have got it and it is something that has to be dealt with.

Mr DEPUTY SPEAKER (Mr Reeves): Order! I remind the member to speak through the Chair.

Mr COOPER: We are enjoying the tete-a-tete. I guess that epitomises the difference between our side and that of members opposite. The member opposite said that this will all be worked out somehow. He is hoping against hope that it will. However, we want to see something constructive and clear in legislation so that everyone knows where they stand. But if we continue to have a mass of legislation that has to be worked through legally, the laymen, be they Aboriginal or white people, will not have a hope.

Unfortunately, I believe, the legislation bogs down the development and progress of the pastoral industry of this State. As I have said before, over the past 9 or 10 years they have had enough problems to deal with as it is. These further constant impositions make it even tougher for them to make a living and to survive in business. It is no wonder that people get frustrated. That is why we see endless frustration in the community being manifest in various ways, for example, through Independents or other political parties. We are seeing more and more of that. We cannot necessarily blame people for that. If they feel angry and frustrated, they obviously have reasons for that. This is another imposition that is added to their other pain and suffering. Tragically, it seems as though there is no end in sight. It is just out of sheer desperation and the sheer fact that this is so unnecessary that these people have to try to live and breathe under these conditions. That, I believe, is the rank absurdity that is known as "native title".

Mr Welford interjected.

Mr COOPER: One day it will be a thing of the past. I believe that one day we will be able to live in harmony without the mess that has been created. I think it is just sad that Governments of the day—be they of the political colour of the member opposite or ours—who, as the elected representatives of the people, are the ones who have to answer to the people but find it very difficult to do so when something is imposed on them by non-elected people from above. That is what makes life even more difficult, and most people realise that. It is the people who let politicians know whether or not they are going to be the Government of the day. If parliamentarians, who are in the hands of the people, are in control, they should have the means to set things on the right track, but they have enormous difficulty coming to grips with something that has been foisted upon them from above.

We on this side of the House will not rest until this farce, this impediment, this absurdity, this tragic disappointment, this costly mess and this very cruel imposition is behind us. I do believe it is a shocking experiment gone wrong. It is something that we all have a responsibility to put right. One of

the things we could do and must do is explain this to the people. It is very difficult to go out amongst the people to try to explain this sort of thing, but we owe it to the people go out to explain the ramifications of this as much as we possibly can.

As the Minister for Environment and Heritage and Minister for Natural Resources said, we should not fan the flames. It is not a question of fanning the flames. We do not have to; they are burning brightly. We have to try to make some sense out of this. That is what is not happening. It would be interesting to hear the explanations as to what these particular amendments actually mean and what they will do to make life easier for all of those people out there who are affected by the legislation. I am willing to bet that this will not make life any easier at all. It will not clear up any of the confusion. Unfortunately, as I have said, it is the people who are going to suffer. It will impact on the ordinary Aboriginal people out there, who have suffered long enough. To now have this imposed upon them is a cruel act. Of course, white Australians will have to try to live with it as well. They have to try to make a living, to be productive, to raise families and so on. To have this, which will make their life almost impossible, imposed upon them as well is one of the cruelest acts. I want to make sure that my thoughts are on the record, and I think I have done that. I do not apologise for one thing that I have said. I am going to make sure that everything I have said is circulated widely because people are asking us, "What on earth is going on? What is this native title all about? How can we do something about it? How can we know what it is about? How can we understand it? How can we explain it?"

Mr Welford: Abusing the High Court isn't going to gain them any good. How does that help?

Mr COOPER: As I said, the people out there are the ones who are suffering, and the member opposite and everyone else have a responsibility to try to explain it to them. As I said, I am saddened to take part in this debate because I do not believe it is going to help the State in any way, shape or form. I do not believe it is going to help the nation. The Government keeps on putting through legislation like this, some of which is supposed to allow us to try to help people. Occasionally we come to this sort of stuff, and we know that we are only going to make things worse.

The Minister for Environment and Heritage and Minister for Natural Resources is saying that I want to abuse the High Court. I have a right to say what I think about any non-elected or elected body, and I will do so. Freedom of speech still lives. Those people have no God-given right to force this sort of stuff on me or anybody else. I want my thoughts to be known, and they are; they are on the record. I am very pleased at least to get that off my chest, but I will still work very closely with people—with pastoralists and with Aboriginal people—out there in the real community, in the real world, to try to get some sense out of this so that, as I said, one day we might be able to live together in harmony. I look forward to that.
