



Speech by

Hon. T. McGRADY

MEMBER FOR MOUNT ISA

Hansard 9 March 1999

LAND AND RESOURCES TRIBUNAL BILL

Hon. T. McGRADY (Mount Isa—ALP) (Minister for Mines and Energy and Minister Assisting the Deputy Premier on Regional Development) (5.39 p.m.): I am pleased to rise in the Parliament today to support this Bill, which is the third piece of legislation introduced by this Government to deal comprehensively with native title in our State. The Bill proposes the establishment of the tribunal as contemplated by the Native Title (Queensland) State Provisions Amendment Act (No. 2) 1998. This Act amends the Mineral Resources Act 1989 by incorporating alternative State provisions to the "right to negotiate" for grants of exploration and mining tenures.

Members will recall that that legislation, which was passed by this House on 11 November last year, provides different processes to protect the rights of native title holders, depending on the type of activity and the type of land involved. It provides separate procedures for applications for prospecting, low-impact exploration, high-impact exploration, mining on non-exclusive land—pastoral leases—and mining on unallocated State land. In effect, the legislation contains 13 separate schemes. The legislation establishes clear and fair processes for allowing mining companies to explore for and, indeed, exploit mineral resources. The Land and Resources Tribunal will be the independent body which will hear objections to proposed grants of tenures where consultation and negotiation do not result in agreements.

Passage of the Land and Resources Bill is critical to allow the Commonwealth Minister to consider and approve these alternative Queensland provisions. The independence of the tribunal is, of course, central to achieving the relevant determination of the Commonwealth and will also be necessary for the continued operation of the tribunal and the alternative State provisions. The Bill is meticulous in this regard.

The Bill abolishes the Wardens Court under the Mineral Resources Act 1989 and transfers its functions—except the penal provisions, which will be transferred to the courts—into the Land and Resources Tribunal. The tribunal will have jurisdiction also in relation to hearings under the alternative State provisions established under the Native Title (Queensland) State Provisions Amendment Act (No. 2) of last year and any ongoing issues relating to agreements created under them.

The Wardens Court has served the community well for over 100 years in solving disputes and setting conditions on mining activities within our State. But the present complexity of many mining applications requires a greater perspective and a broader understanding of issues, including native title issues, in determining if and how mineral development will take place in Queensland. It is extremely important for the economic growth of Queensland that we can develop the mineral resources of the State and, by doing so, create investment and, of course, jobs.

This Government recognises that new mineral developments must take many interests into account in deciding if and how the resources can be extracted. It is no longer the case that if the minerals are in the ground then automatically they should be produced and, as such, this legislation takes this into account. Modern day issues are complex involving land-holder rights, native title rights, environmental issues, planning considerations and the economic needs of the State.

The tribunal also will have jurisdiction under the Cultural Record (Landscapes Queensland and Queensland Estate) Act of 1987 and the Government's forthcoming new indigenous cultural heritage

legislation. The tribunal will comprise a president, two additional presiding members, three non-presiding members, a registrar and deputy registrars. Complex cases and any cases involving native title are to be heard by a multiple member panel.

The Commonwealth Native Title Act of 1993 requires that a member of the National Native Title Tribunal participate when the tribunal is determining objections by native title parties to grants of tenures on unallocated State land. The president of the tribunal is a position equivalent to a Supreme Court judge and the deputy presidents' positions are equivalent to that of a District Court judge. Presiding members are appointed for life unless they retire or their positions are terminated. This will ensure that the tribunal will be a highly respected body, which is in keeping with the importance of the mining industry to our State.

A mining referee will also be appointed for a five-year term. The mining referee will hear and determine many of the procedural matters arising from small mining leases and mining claims, prospecting permits, exploration permits and fossicking. Referees will be eminently qualified, but will not have voting rights on the tribunal. In addition to being eligible for appointment as a Supreme Court judge, a mining referee must have mining industry knowledge and experience, as well as experience in land title and land uses or other relevant expertise. This will ensure that the mining referee is familiar with industry practice. More than one mining referee may be appointed under this legislation.

The Wardens Court was characterised by its presence on the mining fields and by an ability to decide a matter quickly and fairly. Those characteristics are retained in the structure of this tribunal with the position of the mining referee. These hearings will be in towns near the mining fields so that the miners and landowners involved do not incur unnecessary costs. The Bill provides that compensation hearings, which are currently heard by the Wardens Court, will be heard by the tribunal composed either as the mining referee or a single land court non-presiding member.

The Government prefers the parties to reach agreement on the terms and conditions for development, and I expect this will still happen in the majority of cases. We will be providing mediation assistance to resolve disputes at all stages of the application for mining tenures. In addition to the mediation offered by mining registrars in the early stages of mining tenure applications, the tribunal will have a mediation referee and trained mediators to assist parties in resolving their issues at various stages in the process. But in those cases where agreement cannot be reached, there is a need for a well-resourced and highly respected arbitral body—which the Land and Resources Tribunal certainly will be. Such an increased status of the tribunal has long been asked for by most parties involved in this industry—mining companies, landowners, environmental groups and local governments. The issues in competing land uses are becoming more and more complex, and the ability of one person to determine this wider range of issues has been increasingly questioned.

Where the Wardens Court had jurisdiction for a proceeding under the Mineral Resources Act 1989 immediately before the commencement of section 83, the tribunal has the jurisdiction to finish the proceeding. The tribunal will be sufficiently resourced to enable it to travel to regional centres to hear cases and make determinations. This will be important for its credibility and profile. By providing quick and cost-effective hearings where the subject matter of the proceedings is not complex, the legislation minimises the disruption of existing processes under the Mineral Resources Act 1989. In other cases, it provides access to a more prestigious forum with appropriate expertise for resolution of native title and other complex issues.

The mining industry, the indigenous community and landowners support this approach. The Government is proud of its record, over only a few months, in introducing native title legislation which is more comprehensive, more effective, more integrated and fairer than that introduced or even contemplated by any other State or Territory jurisdiction in this Commonwealth. It will prove to be durable legislation which establishes the proper balance between the rights of miners and native title holders and which provides a sound basis for getting the industry in Queensland back on its feet. This outcome is in the interest of all Queenslanders. I commend the Bill to the House.
