



Speech by

**GARY FENLON**

**MEMBER FOR GREENSLOPES**

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Hansard 29 February 2000

### **LAND COURT BILL**

**Mr FENLON** (Greenslopes—ALP) (3.53 p.m.): I rise to support the Land Court Bill 1999. In doing so, we have only to think of the range of economic theories that have been espoused over the years to realise the importance of land as a factor of production in our economy. Land figures very prominently in any of those theories as a very important aspect of value and as a factor of production. As such, it is a very important aspect in terms of generating wealth. Associated with land within this jurisdiction is the valuation of water resources to a very large degree. We have only to look at economic theories associated with the Asian mode of production to see just how important water associated with land is as a factor of production.

The fact is that we have to provide a very responsible and balanced process of regulating our land. Regulating its value, its transactions, its acquisition and other factors that arise in relation to the valuation of land in terms of the fixation of taxes and rates are all factors which are of very great economic importance in the processes that are now before the Parliament relating to the fixation of those values and how those values then contribute to the economic processes we have operating in our economy.

The original Land Act, which the Bill before the Parliament seeks to amend, is a very old Act. As such, we have had a fairly conservative and traditional approach to the way in which the Act has operated and the associated court process. This is a process that goes back to the foundation of this State. The appropriation and allocation of land has been one of the most important and fundamental aspects to the development of this State over more than a century. This is a very important Bill to the economic wellbeing of the State. The Bill retains the court as a separate court and gives it its own enabling legislation. Indeed, it used to be part of the Land Act 1962, which was replaced by the Land Act 1994. The Land Court was never dealt with at that time.

Perceptions by the public in relation to the machinery we are dealing with are often very negative. Historically, it has been such. It is a perception of a very unwieldy and impersonal system. That is a very unfortunate situation. This is an issue which touches the lives of so many Queenslanders within not only business but also the domestic sphere—that is, implications of rating increases that can flow from valuation changes. It is an issue which begs for an approach to enable citizens to access the system in a broad sense—particularly for citizens who are not legally qualified and who do not have the finances to formally proceed through the court system—and access it in a way that is very consistent with other lay jurisdictions. That prospect is certainly a very central part to this legislation.

The changes have meant that some of the modern techniques used to deal with legal cases could not properly be applied, and I refer there to the conciliatory stages that now figure within the court system. It is a process that has been applied in the past, but this legislation will certainly provide for greater formality and legal impetus to back up those conciliatory processes.

The important point about this—and I ask the Minister to continue to take cognisance, as he has—is that the way in which the court will deal with these conciliatory processes in the future is also very closely interdependent with how land valuation issues are dealt with through the more bureaucratic stages. What we hope in terms of the future development and future reviews of this legislation is that this court gets less business. We hope that fewer cases end up at this court. The way in which that can be achieved, we hope, is via a far more conciliatory process in the earlier stages, a process which

enables disputes and grievances to be settled in relation to issues such as valuations, and that is one which opens up a very important spectrum, that is, the way in which information is provided.

I am very pleased that, in response to some recent concerns, especially from my own electorate, the Department of Natural Resources has been very responsive in terms of trying to provide more information at this particular juncture where the aggrieved party, the aggrieved citizen, is simply wanting explanations about valuations, for example, from the department before they proceed to more formal processes. We as a society certainly need to avoid the spectre of citizens en masse going through those formal processes, so the more effectively we can do that at the bureaucratic stage, at the departmental stage, where the citizen is directly interacting with the department, the better off we will be.

The reference groups that I have set up in my own electorate, which are currently groups of citizens who have been appointed from open public meetings within my electorate, have been working with me on exactly these sorts of questions. Those reference groups have been looking at the current operation of the Act, not only in terms of how it serves the public but also its future review.

In terms of the current review of the Act, they are certainly very interested in ensuring that a correct balance of information is provided at the outset, that at that point of the formal notification of a valuation, for example, appropriate information is provided. I am very pleased to be informed by officers of the department, as recently as last night, that a new approach will be taken this March upon the notification of valuations in terms of a different letter and different accompanying information being provided to citizens in relation to their valuations.

This is a very important and difficult balance to achieve, because some citizens would like to have spelt out exactly what properties were looked at in terms of their valuations—exact locations, et cetera—but it certainly would be going too far to provide that information en masse. We might have to look much further and much wider, and I draw the attention of members to the discussion paper on freedom of information that is currently circulating as a result of the deliberations of the Legal, Constitutional and Administrative Review Committee. That is a paper which raises a specific alternative in the overall public administration in this State, and it is an alternative which goes to the heart of what information is provided automatically to citizens. An option that we may have to advocate and consider in this State is one which provides more open access to information, for example, regarding property valuations. In this age where Internet access is becoming very commonplace the prospect of providing more information about valuations and the valuation determination process may in fact be a real consideration so that, rather than bog down the governmental system in requests and inquiries and people phoning the system for more information, we may in fact have a more streamlined system by making this information more readily available.

Indeed, the other side to this coin is the prospect that the department may wish to still sell this information. That is certainly a very important consideration. But a more automatic release of this information to individual citizens may still be feasible, while at the same time maintaining the commercial value of that information to be sold as full data packages which might be manipulated and used by people such as those in the real estate industry. These are important questions to evaluate in the future, in terms of how we streamline this process and minimise—again, "minimise"—the prospect of citizens having to go through this far more formal process of objection through the department, appeals to the Land Court and then perhaps even appeals beyond that to the Court of Appeal.

I believe we need a far more creative approach, an open approach, and I welcome the responses that are already coming from the department in terms of its preparedness to provide this information, but I hope in future we can encapsulate that approach within one which seeks to provide a far more automatic release of information in a more efficient way and one which does not bog down the system.

The advantage of this Bill and the framework it creates for procedural rules will enable a more streamlined, modern and professional approach to land issues, and in fact, in doing so, it reflects the very specialist nature of this jurisdiction, and that is certainly what is required. The concept follows the new uniform court rules which came into operation in the wider court system as from 1 July last year, and the amendment to the Bill to be moved by the Minister at the Committee stage requires any committee to have specialist skills and qualifications appropriate to the jurisdiction. No special qualifications are currently required.

There are a number of general points of which we also need to be aware in terms of the background to this Bill. There is support for there being separate legislation for the court because of the highly specialised subject material under its jurisdiction—for example, land valuations and resumptions themselves—and the need for an appropriate framework to enable it, as a separate jurisdiction, to operate efficiently and effectively.

We have to stand back and consider just what valuation is. I believe it is a very sophisticated balance of art and science. It is one which tries to develop the objective and the subjective. It is one

which requires great experience, because of the very wide range of permutations and combinations that valuers strike in their daily work, especially in terms of working with properties.

The other aspect that really complicates the valuation process is the sheer dynamics of it, and that is a matter of which valuers need to be cognisant all the time and which brings it into such a specialist domain. The fact that property prices in a city like Brisbane move on a daily, weekly, monthly or yearly basis provides for certain trends that become apparent over time. Certainly, citizens in electorates such as mine have a great deal of difficulty recognising the way in which valuers sometimes take into account those trends, and much frustration arises from it. The land valuer ultimately comes back to the market and is constrained then by the black and white words printed in the legislation, which require the valuer to take fundamental cognisance of the unimproved value of the land.

This matter has been of great concern to constituents in my electorate because they find that this very tight concept of unimproved value is not one which recognises the wider dynamic which is occurring within the land market. I am grateful that the Minister has indicated a preparedness to listen to the reference groups that I have assisted in setting up in my electorate. I believe that those groups will provide valuable assistance to the Minister. These people are well read and are well acquainted with the issues. They are very enthusiastic and earnest about the prospects of changing the law in order to better recognise the specific concerns of the citizens of Brisbane. They are concerned with regard to the process of reaching a fair valuation of their properties as a basis for rate fixation.

The Land Court is a specialist court which should be staffed by specialist lawyers, valuers and/or related land professionals. This will lead to a separate and distinct jurisdiction which can take those dynamics and those special concerns into account. Because the strict rules of evidence do not apply to the Land Court, more flexible procedures can be adopted to accommodate the wide range of appellants. This is necessary because we are not simply dealing with commercial and industrial land but are increasingly dealing with land in a domestic context. It is a fundamental right of citizens to have access to a system which allows them to be heard. The conciliatory processes which will be underpinning this Bill will enhance the access of citizens to the Land Court. People of all ages and from all sorts of backgrounds may become frustrated with the valuation process and seek to have access to the Land Court.

People appreciate the flexibility and friendlier environment of the Land Court. Without this legislation, some of the innovations informally applied by the court could not be strictly enforced. This would disadvantage many people who bring matters before the court. It is necessary that we have the conciliation aspect of the court process. Any citizen who is unhappy with a valuation can go through the objection process with the Department of Natural Resources and can then take the matter to the Land Court. Some people may want to argue about the rating valuation and others may want to argue about the level of compensation which is paid by a resuming authority.

This Bill, by giving the court its own enabling legislation, recognises the rights of people to have their matters heard by specialists. This leads to a more consistent outcome for Queenslanders. People can still appeal against decisions of the Land Court by going to the Land Appeal Court, which is chaired by a judge of the Supreme Court. Although it is a specialist court, the Land Court is still subject to the supervision of the wider court system.

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