Speech by

JEFF SEENEY

MEMBER FOR CALLIDE

Hansard 29 May 2001

NATURAL RESOURCES LEGISLATION AMENDMENT BILL

Mr SEENEY (Callide—NPA) (5.07 p.m.): The Natural Resources Legislation Amendment Bill is something of a fruit salad. I am sure the minister agrees. It deals with amendments to quite a number of acts and on quite a range of diverse issues. It seeks to amend the Aboriginal Land Act 1991, the Acquisition of Land Act 1967, the Coal Mining Safety and Health Act 1999, the Explosives Act 1999, the Land Act 1994, the Land Court Act 2000, the Land Title Act 1994 and the Torres Strait Islander Land Act 1991. Any bill that sets out to amend eight separate acts allows for some wide-ranging speeches in the second reading debate. However, this afternoon I will make only some very brief comments.

I raise the issue of where this bill sits in terms of the government's priorities. This bill was introduced into the House during the last sitting week and it has had something of a meteoric rise up the list of bills to be debated. Perhaps the minister could explain just why this bill was such a high priority for the government and why the bill was brought on for debate today. That was somewhat unexpected, given the government business that was ahead of it on the *Notice Paper*. It certainly does not allow the type of scrutiny that I would prefer for such a wide range of issues across a wide range of diverse acts. It does not allow the type of scrutiny that a well-informed opposition would like to see take place in regard to this type of bill. But having said that, most of the issues that we have identified in this piece of legislation do not present any problem to the opposition.

The proposal to amend the Aboriginal Land Act sets out to address the issue of appointing chairpersons of land tribunals, and we really have no problems with the proposal put forward by the minister in his second reading speech.

The Acquisition of Land Act 1967 is to be amended to extend the compensation provisions. We have no problems with those proposals, either. However, it is worth noting at this point the concerns that have been widely expressed—and I have certainly expressed them in this House—about the Acquisition of Land Act itself. It is high time that the Acquisition of Land Act was amended extensively to change the whole concept of compulsorily acquiring land. It is an issue that must be dealt with by whichever side of politics is in power.

The whole issue of acquiring land and paying fair, reasonable and adequate compensation for the disruption that that causes to people's lives must be addressed. And the fact that this act has not been substantially amended since 1967 is an indication that it is overdue. We have to deal with the upheaval and the disruption that the compulsory acquisition of land imposes on people, whether the acquisition is for dams and other water storage infrastructure in far-flung places or whether it is for the construction of road or transport corridors or whatever in Brisbane or the major urban centres. There is an increasing problem for governments and legislators to acquire land in a way that leaves people reasonably happy with the process.

I believe that the act as it stands refers to a fair market value and sets out ways of determining what that fair market value is; but I have never seen a case in which people who have had their land compulsorily acquired believe that they have been treated fairly. I believe that every member of this parliament who has had the compulsory acquisition of land occur in his or her electorate has had to deal with unhappy constituents. There needs to be a review of the process of arriving at that fair market value. Too often, I believe, the negotiations are left to people in middle levels of whatever department

is compulsorily acquiring the land, whether it be the Transport Department, the Department of Natural Resources and Mines or—given the previous piece of legislation—the Department of State Development. It is a hotchpotch approach. We took to the last state election a policy that would have seen a particular unit formed at a high level within the government—in the Premier's department preferably—to make sure that this whole subject of compulsory land acquisition was handled in a way that was in close accord with the government's intent.

I do not think any government, irrespective of which side of politics is in power, wants to see people deprived of their property and left in an unhappy situation. I am sure that everybody would agree that these processes need to take their course in such a way that the people who are disrupted and removed for the community good—and there will always be individuals who have to sacrifice their lifestyle or go through this traumatic process for the good of the rest of the community—should end up better off rather than worse off. And if we can establish a process that ensures that people end up in a better off position, we can remove all the trauma and the emotiveness and the field days that the television cameras have when people trade on that emotiveness every time this sort of land acquisition happens.

We have no problems with the amendments that the minister is suggesting to the Acquisition of Land Act, but I recommend to him that he look at the whole issue of the compulsory acquisition of land and how it is carried out by the state. I recommend to him the position that we advocated: that it be done by a specialist unit that is highly placed within the government to ensure that those processes are carried out in close accord with the government's approach. The minister will certainly have our support if he does that.

The next piece of legislation on the list is the Coal Mining Safety and Health Act 1999. Once again, the amendments that are proposed for this particular piece of legislation are certainly important, because they are necessary to ensure that mines rescue teams are properly accredited. These are certainly not the sort of amendments that anyone would suggest that we would oppose. However, once again I take this opportunity to place on record my appreciation of the work that is done by the mines rescue teams and the importance of safety in our coalmining industry.

The coalmining industry is of enormous importance to the area that I represent. It is of enormous importance to the whole central Queensland region that I, the member for Fitzroy—who is not in the chamber—and the member for Gregory represent. It is something that the people of Queensland by and large take for granted. The contribution that the coalmining industry makes to the economy of Queensland and thereby to every single Queenslander is something that is not realised, and it cannot be repeated often enough in this parliament. But for that industry to be successful, it must have safe working conditions; and unfortunately, the mining industry is one that can never be completely safe.

One of the saddest aspects of the role of shadow minister for natural resources and mines—and I know that the minister shares this sentiment—is receiving the periodic reports of coroners inquiries into deaths in the mining industry. Reading those and their detail certainly strikes a chord and reinforces the importance of making sure that we do everything we can to ensure that what is essentially a dangerous industry and a dangerous job is made as safe as possible. These particular amendments seek to accredit those people who are probably at the pointy end—I did not say coalface—of that effort, namely, the mines rescue teams. They do a great job.

The next piece of legislation that is to be amended by this bill is the Explosives Act. These regulations are long overdue. This piece of legislation dates back to 1999. One must wonder why the regulations have not been completed. Here we are in the middle of 2001. Why have these regulations not been completed? The minister addressed the reasons for the amendment in his second reading speech, but he did not address why the amendment was necessary. Why have those regulations not been completed after such a long time? I think the minister would agree with me that those regulations certainly need updating. So why have they been allocated such a low priority, and why has this taken so long? We certainly support this particular amendment, which simply extends the time frame within which the old regulations are to stay in place to allow for the drafting of the new regulations. In that respect, my only comment is: the sooner the better.

The amendments to the Land Act and the Land Title Act raise some concerns that I hope the minister can allay when he replies. We will explore those concerns more fully at the committee stage. The amendments to the Land Act and the Land Title Act set out to create a new form of easement for the purpose of inundation by water storage areas. At first glance and on reading the explanatory notes and the comments of the minister in his second reading speech, I can see the benefits in that course of action. I can see that there are some circumstances, especially in relation to smaller weirs, where an alternative to the traditional total acquisition of the land to be inundated would be desirable, especially in respect of that area of land at the top of the inundation area, which is probably seldom inundated and then inundated only for short periods.

Rather than adopt the traditional approach of the government or the utility provider acquiring that land, this amendment provides that a new form of easement be created to allow water to inundate that land, but the ownership of the land remains with the land-holder. That is quite an understandable proposal. However, I think certain issues need to be explored to protect the rights of the land-holder against the things that can go wrong in reality. There are certain matters that need to be explored in the parliament today before this amendment is passed and becomes law to clear up the possible uncertainties that occurred to me when I read the legislation, the second reading speech and the explanatory notes.

The minister said in his second reading speech that these easements would be at the agreement of the land-holder and the utility provider, but nothing in the legislation stipulates that those easements are restricted to situations in which there is agreement. We all know that the scenario in which everyone agrees about what is an appropriate course of action in any particular circumstance is not as common as we would like it to be.

It is easy to imagine the scenario to which I am referring, where the utility provider or the government would see the option of creating an easement as the best option for them, if for no other reason than the financial one. Obviously there will be a much lesser cost in establishing an easement, even if compensation is part of that easement, than there would be in totally acquiring the land. For the land-holder, it is quite easy to understand that the easement option may well be seen as not as good an option as total acquisition, because for him there will be a lesser financial benefit than total acquisition.

It is very important that the minister clarify in what types of situations these easements will be the appropriate alternative to total acquisition. What types of situations will be considered appropriate for easements, given that that type of agreement will not be able to be arrived at every time? What is the intention of the department and this legislation in respect of those situations in which agreement cannot be arrived at, in which there is a dispute about the appropriate form of redress?

A whole range of issues flow from that. There is the question of compensation. Obviously the easement example would require some type of compensation provision. The easement example is achieved by just adding another reason for an easement in the Land Act. The reasons that currently exist in the Land Act for the creation of easements are, by and large, non-obtrusive. They are for things like powerlines and gas pipelines, which do not have the same detrimental effects as inundation of a particular piece of land by water. It is much easier to establish the impact on the land-holder by creating an easement for a powerline or a gas pipeline or whatever. When we deal with a scenario in which a particular piece of land will be inundated by water on a regular basis that cannot be predicted, for periods that cannot be predicted, I suggest it is very difficult to arrive at a proper estimation of the damage or loss to the land-holder and therefore what the appropriate compensation would be. The difficulty in arriving at that agreement is in itself another reason that I believe whoever administers this legislation will face the difficulty of not always getting agreement about which is the appropriate way to handle this, by either easements or acquisitions.

The other issue which I believe requires clarification is the proposal to have the easement apply to the whole of the land, not just the portion of the land that is subject to the inundation. That raises a whole series of questions about the responsibility of the land-holder or the restrictions being placed on the land-holder by that easement, not just in the area that is inundated but in the riparian areas that are close to or may well have some effect on the inundated areas. There is a series of issues there which, when seen from a practical point of view, require clarification. The intent of this legislation needs to be made very clear, because the alternative to doing that could be somewhat painful. I think it could be quite detrimental to land-holders to have to deal with officers of the minister's department who have the job of administering this legislation without knowing very clearly what the minister's intention was in introducing this amendment.

It is a very different situation. I do not think it is quite as simple as a first reading of the legislation, the explanatory notes or the second reading speech would have us believe. It is not quite as simple as creating easements for other purposes, simply because of the different nature of the activity. There is quite a deal of difference and there are quite a number of other issues that will arise in the creation of the proposed easements than have ever arisen with the other types of easements with which land-holders are probably very familiar and with which they are quite used to dealing. So I urge the minister to address that issue in some detail—in quite a bit more detail than he has in the second reading speech—and put on record just what his intentions are in regard to that matter. I look forward to responses from the minister on that issue, which is the only provision of the legislation about which we have concerns.

In conclusion, I say that I think the proposed amendments to the Land Act are sufficient to have warranted a bill on their own. This bill seeks to amend eight pieces of legislation, and there are a number of land-related issues in the amendments to the Land Act. I think their impact or potential impact on land-holders is such that a bill to amend the Land Act would have been a more appropriate

way to handle them, rather than to bundle them together in this bill, which seeks to amend eight pieces of legislation and thereby confuses the issues inherent in the amendment of any one of those pieces of legislation. I say that to the minister to convey how this piece of legislation is viewed by this side of the House. I look forward to the minister's reply and the opportunity to pursue these issues further at the committee stage.