



Speech by

Mrs D. PRATT

MEMBER FOR NANANGO

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ABORIGINAL CULTURAL HERITAGE BILL; TORRES STRAIT ISLANDER CULTURAL HERITAGE BILL

Mrs PRATT (Nanango—Ind) (10.07 p.m.): I rise to speak to the Aboriginal Cultural Heritage Bill 2003 and Torres Strait Islander Cultural Heritage Bill 2003. I recognise the need for the preservation and protection of all Australian heritage. At this point I would like to state that as a seventh generation Australian I have never felt other than that Aboriginal and Torres Strait Islander history has combined with my European history to be part of my heritage, because all have made major contributions to my life, to how I live in Australia and to the evolution of my belief system.

It was stated by members that most people value and would preserve historical artefacts. Unlike these speakers, I believe there are many people who would willingly destroy another person's history, whether it be yours, mine, anyone's, whatever their origins. Why? Because they simply do not care about history; do not understand it or value it. Many people do not care where they came from let alone where someone else came from. Some do not even care where their grandfather came from. I personally find history fascinating and I do not care whose it is. But there are people who would destroy historical artefacts without any regard or thought that it is necessary to protect our heritage.

Many Australians admire the long history of Europe or England but forget we have the oldest culture in the world. We have significant Aboriginal cultural sites in the South Burnett. These sites have long been recognised as tourist sites, but the truth is that many of these—the bora rings, middens and other culturally significant sites—have long been neglected by the Aboriginal people, and it was only through having these sites protected by local shires and clubs that they are now still able to be seen and, hopefully, for all time.

There is an atmosphere at cultural sites in any country. As we would choose not to offend overseas cultural practices, we should also be mindful of Australian cultural sensitivities. So I disagree that only Aboriginal people value their history, for some do not and some do. Like the rest of us, some do and some do not, and some often do to a greater extent than others.

This current claim to cultural significance and the necessity to preserve it has been viewed by many in our communities as being convenient. There have been incidents in the past where a land claim has been recognised and that land handed back to the recognised Aboriginal tribe only to be resold to developers. Sadly, whether justified or not, it is now the belief of many that money is the prime object of many land and culturally significant site claims.

I have a major concern with this legislation in regard to the obligation that owners, occupiers or other persons otherwise entitled to use the land must refrain from unlawfully harming the cultural heritage as they are, therefore, committing an offence. I have no problem with that statement if the existence of a culturally significant site, such as a midden, a burial place or other significant area, is known. Where such a site might not be known, I question whether or not this legislation is fair to those who might inadvertently destroy the relics. They may not even recognise these relics even after the destruction has occurred.

The penalty units are very high in that there are maximum fines of 1,000 penalty units, or \$75,000, for an individual or 10,000 penalty units, or \$750,000, for a corporation. For a corporation, a heavy fine for transgressing the processes that are already in place to protect cultural heritage may be justified as these corporations have known for some time and should be very conscious of such sensitivity to the issue of preservation of our ancient historical sites.

I would like to see this legislation apply also to grave sites. On occasions it is reported that a cemetery is to be lost under some development or the bodies removed and interned at another

location to allow for some development or other to go ahead. I find it just as offensive to disturb my ancestors' bones or those of other people as do Aboriginal people or Torres Strait Islanders find it offensive to disturb theirs. I personally do not see the difference between the two. In years to come our ancestors' bones that are here and buried will be just as culturally significant as those that are deemed significant by the Aboriginal people.

However, I stress that, because of an individual's lack of knowledge of cultural heritage relics, it could be perhaps very difficult to ascertain intent to destroy. I ask the minister: can he guarantee that there is an adequate mechanism in place to ensure that such persons are not unduly caught by this legislation and that the onus of proof is not reversed and they are required to prove their innocence? I assume that this legislation covers all Australians, too, including the tribal members for whom the site is culturally significant—or is there provision for a possible out if the site is subsequently or inadvertently destroyed by them? I seek clarification of that.

I recognise that there is to be a register where significant places of Aboriginal and Torres Strait Islander cultural heritage are noted and a database, but is that enough to protect individuals who might transgress this legislation? Where there is the known existence of a cultural heritage site or place of significance prior to the purchase of the site, prior to the granting of a lease or the granting of another allowable usage, should it not be mandatory—or at least would it not be appropriate—that such recognised culturally significant sites or locations be listed on the lease or deed of the property at the time of purchase? Perhaps it could be an obligatory part of the property agent's disclosure to a client. It should be possible, with modern technology, for a registered culturally significant site to be incorporated on the deed or be revealed as part of the search.

The fact that no visible signs of cultural heritage may stop development permanently concerns me. How does one prove a birthing place, for example? I have great concerns about these stop-work orders. Although I recognise the 30-day limit mentioned in the legislation, which many will believe is reasonable, it could be seen as totally unreasonable to small and large businesses alike when a day lost can result in significant financial loss. Surely, if there is the possibility of a significant site, it could be verified within a much shorter time through visible evidence and, if necessary, once the reasonable possibility exists that it is a heritage site, then and only then should the stop-work order be extended. I wonder if there are claims—perhaps vexatious claims—that are made in many areas of activity that may be used to impede development for whatever reason. Land-holders and others need to have their rights to operate their land protected as well.

There have been times when the requirement has been for Aboriginal personnel to move ahead of construction work to check the route for significant cultural artefacts or sites. Often the unrealistic cost of such a requirement has impacted heavily on the project under way. This requirement must be appropriate for the project. For example, recently the pipeline to supply water to Blackbutt was to be checked and inspected by an Aboriginal crew. It caused a great deal of resentment, not because the people of the area are opposed to the checking of routes that have been untouched, but because this exercise was to be carried out on land that had, years and years before, an easement surveyed for the construction of powerlines, telephone lines and bitumen roads. It had all been put through long before with all the associated bulldozing, tree felling and other heavy machinery activity that such things entail. But for the pipeline, which was to follow the same path, the requirement that it was necessary to have the already decimated easement area walked for the length of the pipeline seemed an unnecessary burden of cost and time on the shire council and ratepayers. Most people want to be fair and reasonable, but sometimes it can be very hard to find fair or reasonable in the interpretation of legislation by those who have to apply it.

This legislation must be reasonable and it must also be workable. With regard to the recognition of Aboriginal or Torres Strait Islander ownership of human remains, I would think that each of us would regard that as commonsense. We would expect the same if our own family members' remains were displaced. I find it very difficult to understand that people think that, because I have fair skin, I have a lesser attachment to the people and the land. No matter who we are, our passions are no less important than another's and all need to be considered. My heritage is no less important.

My sadness about this bill is that it is divisive. I would have preferred that this bill addressed all Australians' cultural heritage, be they Aboriginal, Torres Strait Islander, European or Asian, because we are all Australians. Regardless of our place of origin, we are all immigrants and we all make up the world in which we live.

As the member for Gregory has stated, I hope that this is a living piece of legislation—that it can be and will be amended when the time or need arises. I ask the minister if is this what he had in mind. I hope that it is. There is a lot of good intent in this bill. Some people will like it, some people will hate it, and some people will think it does not go far enough. I look forward to the minister's reply to all the questions that have been asked in the House tonight. Although I have reservations about parts of bill, I support the intent.