



Speech by

HOWARD HOBBS

MEMBER FOR WARREGO

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ABORIGINAL CULTURAL HERITAGE BILL; TORRES STRAIT ISLANDER CULTURAL HERITAGE BILL

Mr HOBBS (Warrego—NPA) (6.32 p.m.): I am pleased tonight to speak to the Aboriginal Cultural Heritage Bill 2003. There are a number of issues that I want to canvass tonight. I was interested to read the second paragraph of the minister's second reading speech, which states—

That act is widely regarded as an ineffective and impractical tool to protect and manage impacts on Aboriginal cultural heritage, which has led to excessive financial costs, administrative duplication and delays.

It sure did. I have been here for quite a long time. I think it must have been 10 to 12 years ago that this started. I can recall that most indigenous communities were opposed to what was being put up at the time. I can recall them knocking down the gates at Parliament House as well. It was simply because the government of the day would not listen. So we have really wasted 12 years.

It raised expectations in some Aboriginal communities far in excess of what they would achieve. It has been disappointing for them and it has been absolutely dreadful particularly in getting any mining activity going. I refer to small-scale miners, particularly opal miners. There is basically no significant cultural activity on such a mine and they still cannot get anything going. In recent times we have been able to make some small progress. Those people have been held for years—in some cases for up to seven years, as the minister would be well aware—and the problems were so simple to fix.

I am very pleased that this legislation has been introduced. We are supporting it, and I commend the minister for it. I think that sentence is a big statement to make. I do not want to harp on it, but I wish that sometimes governments would take a broader view and listen, because everything that is in this legislation we have been saying for a long, long time. Whilst it is certainly not perfect yet, it is a step in the right direction and I believe an important step, particularly for Aboriginal people and the indigenous communities of Queensland, and it will certainly be a step forward for the broader community as well.

The objectives of this legislation are to recognise Aboriginal ownership of certain human remains, secret and sacred material in state collections, and items of cultural heritage removed from an area under the authority of the legislation. In other circumstances the state retains a residual ownership of cultural heritage generally to ensure effective protection and regulation. I do not think we have a problem with that insofar as at least there is something quite clear there, whereas before nobody really knew what was going on. There were multiple claims of ownership and the whole thing was very unclear.

The legislation also recognises the fundamental right of Aboriginal people to be involved in the process of assessment and management of activities that may harm their cultural heritage. It also provides certainty of process and time frames for the assessment of cultural heritage and the management of possible impacts on it. Those time frames are important. What we have had so far is 12 years where virtually everything has been held up. It is frustrating for everybody concerned. I cannot believe it has taken so long to finally get something right.

It is interesting that the legislation seeks to establish a duty of care for all persons to take reasonable and practicable steps to prevent harming cultural heritage. The legislation sets out key indicators as to how the duty of care may be met. The duty of care is key to ensuring the legislation is flexible and workable and not unduly prescriptive. That is often the problem. Once things are written down too tightly, it is very hard to be flexible and we do not need that. We need a little bit of movement on both sides to be able to progress forward.

The legislation also establishes mandatory triggers as well as sets time frames and procedures for the assessment of cultural heritage where high-impact activities are proposed—that is, those activities requiring an environmental impact statement or where a material change in land use is proposed over an area entered on the Aboriginal cultural heritage register. The bill also creates penalties intended to act as a deterrent and to reflect the importance attached to safeguarding cultural heritage values in Queensland. I think this is one area where the minister has gone overboard. While we want to make sure that people do not damage anything that is culturally significant, going from \$7,500 to \$75,000 for individuals and \$75,000 to \$750,000 for corporations is over the top. This reflects the big stick mentality that the government seems to have.

I think we need to have a process put in place. People will go along with you if you are reasonable, but if you go out there and drive it into them all the time using the big stick it just will not work and people will totally resent it. Whilst these are maximum amounts likely to be imposed, I still think they are far too high. If we get to the stage where we find there are some problems out there, then we can address them at the time. But going straight in for the kill the way the government has done I think is way over the top.

The bill also establishes a register of Aboriginal cultural heritage. Information may be placed on the register following a cultural heritage study to assess the significance of an area, as well as other information necessary to help the consideration of Aboriginal cultural heritage. Maximum penalties apply. The bill also establishes a database of Aboriginal cultural heritage. The database will contain information about cultural heritage values collated by the Environmental Protection Agency since the 1930s. Information may be added to the database without undertaking a formal cultural heritage study. Information may be provided from the database on an 'as needs basis' to ensure that the sensitivity and integrity of the information are respected. Lastly, the bill ensures that cultural heritage activities undertaken in accordance with the terms of a native title agreement or otherwise pursuant to an agreement with the appropriate Aboriginal parties will remain valid under the new legislation.

Many issues need to be canvassed tonight, particularly in relation to the issue of cultural heritage monitors, as the member for Callide raised. It is not so much the cost of it; there are duplications. Some situations are getting completely out of hand. I do not believe that in all instances we are getting the right people in those particular areas. There seems to be a bit of a niche market out there that some people are probably exploiting. They are saying, 'Yes, we have the qualifications to look at certain cultural areas.' I do not believe they have those qualifications. In some cases I am certain they do have not them, because we know the people involved. All they are doing is dudding their own people. We are finding instances in which the job has to be done again. It creates division among the communities. This is a very serious situation that has to be resolved.

The member for Callide and the opposition spokesman talked about the Burnett River dam. That is one good example of where the division is constantly going on, but we have had the same thing throughout the western sites as well.

The previous legislation was defective. At the time we said that many sites would be destroyed. I can recall the very emotional debates we had. I believe they have been destroyed because it was easier for people to do that rather than notify anybody or preserve them. Because the legislation was so badly drafted in the past we have lost many of those things. In many ways it is a shame that has occurred. We tried, we tried and we tried to tell people that it would not work, but it seems that they just would not listen.

One of the issues that has been of real concern, particularly in my shadow portfolio of local government, is the problem the councils have in doing their normal roadworks. If they want to get some soil or gravel or widen a road, they have had enormous problems. They have to cart gravel for long distances. There is nothing out there in those particular areas at all. Even if they do have somebody to go and check them out, they cannot get the paperwork done. Nobody will turn up. It is totally frustrating. I hope that this legislation will resolve many of those issues. Delays have cost councils hundreds of millions of dollars over the last few years because councils have had to bring in other material for roadworks.

At Burketown, sand was brought in from somewhere near Cairns to do some cementing work because of a dispute between a couple of Aboriginal indigenous communities over some land. The soil for cementing was going to help the community. The removal of sand was not going to have any significant impact, particularly from the area they were talking about. Most of the indigenous community were fairly happy with it. Because of that dispute, an extraordinary additional cost was incurred to carry out the work.

In the last few months I have gone around some indigenous communities, particularly in the cape and the Torres Strait. I was pleased to see the improvement made to many of their sewerage and water supplies. As a minister, I went up there to see how bad they were. I was pleased to see the improvement that has taken place. I was astounded that it had not been done before. In the nineties we had the Goss government for six years. We got in there and changed it dramatically in a short time.

I am pleased that this government has continued to fund some of those programs. It had to be us! Within two and a half years, we put the money in to start those programs for the new houses and for the sewerage systems. There did not seem to be a genuine commitment from Labor to actually do those things.

Mr Livingstone interjected.

Mr HOBBS: But things change. I know things change.

Mr Livingstone interjected.

Mr HOBBS: I really do not think so. You had six years. When all this native title legislation came in it was in the nineties under Wayne Goss and there was the outpouring of grief by the people opposite, yet they would not help the indigenous communities. They hardly put a brass razoo into those northern areas. I wanted to make that point. I am pleased that the government has funded it now. That is important. The water supplies are improving. Although some progress has been made, more has to be done.

I do not think that this legislation will resolve entirely the multiple claims. I know that some time frames have been applied in the past, but these matters have to be resolved. It is a difficult situation because there are different tribal areas and different families. They all get quite aggressive about the whole thing. By the same token, there has to be a mechanism that does not allow those disputes to continue. They have been occurring for a long time. There is no reason for them at all.

Mr Robertson interjected.

Mr HOBBS: I do not think the government has fixed it at this stage, and certainly the tribunal that was established has not been able to fix it. Let us hope that this legislation will fix it. I really do not think it does, but it may help.

Mr Robertson: I think you are referring to the wrong act.

Mr HOBBS: It probably is the wrong act, but this legislation may go a certain way towards improving it.

Another issue that is important here is that under the legislation Aboriginal people are responsible for assessing the level of significance of their culture. However, an important facet of this bill is the requirement that assertion of cultural heritage significance by an Aboriginal party be consistent with authoritative anthropological, biogeographical, historical and archaeological information. This is what I was referring to when I said that this legislation will help deal with some of the problems. We have to make sure that we do have some truth in science in the information that is there. We do not want to see a repeat of what has happened with other issues such as water management, where we have found that information being provided by the department was not right. We have to make sure that this information is correct and that the government is the honest broker so that people will have some faith in it. If that can be done—

Mr Robertson: That is the longest bow I have ever heard from you.

Mr HOBBS: It is very close. The government had come up with some dodgy stuff before. I am making the point that it has been done before. That has been proven. I want to make sure that it does not happen with this legislation. The indigenous community would not want to be led up the garden path and neither would the broader community.

Mr Robertson interjected.

Mr HOBBS: I am not sure about what model; I am saying so long as the information is as accurate as we can possibly get, with some sort of truth in science with the whole thing and not just people making it up, which has happened in the past.

The bills provide for a review of the legislation within five years, and that is reasonable. Progress has been made. I am happy with that, as I am sure the House will be, although a previous speaker did not seem all that—

Mr Robertson interjected.

Mr HOBBS: In that case, that member was not here to see how bad it was before. So there has been a—

Mr Robertson: I just don't think they're ever here.

Mr HOBBS: Those of us who have been here longer have seen some changes. This is a vast improvement and let us hope that it gives some certainty and some security to the Aboriginal and Torres Strait communities as well as the broader white community.