



Speech by

**JEFF SEENEY**

**MEMBER FOR CALLIDE**

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Hansard 9 September 2003

### **IRVINEBANK STATE TREATMENT WORKS REPEAL BILL**

#### **Second Reading**

Resumed from 19 August 2003 (see p. 2932).

**Mr SEENEY** (Callide—NPA) (Deputy Leader of the Opposition) (4.05 p.m.): I rise to speak to the Irvinebank State Treatment Works Repeal Bill 2003, which is actually the third piece of legislation that I am aware of that has been introduced into this House to deal with the issue of the old Irvinebank State Treatment Works. This legislation terminates agreements between the state government and Mr Frank Hilla for the sale of the Irvinebank State Treatment Works.

Irvinebank is a small town near Mareeba in far-north Queensland. The town has a significant number of historical buildings and it was considered to be one of Queensland's most successful tin mines. It currently contains a community of about 120 people who share the task of maintaining the Loudoun House museum, the School of Arts town hall, the old police station, the courtroom and other places of historical significance. Twenty years ago the then state government entered into an agreement with Mr Frank Hilla to purchase the state treatment works at Irvinebank. Legislation was subsequently passed and the sale agreement was finally signed in August 1991.

However, a range of factors, such as the collapse of the tin price and the heritage listing of the treatment works, raised barriers to the purchaser securing the finance to complete the contract. The purchaser sought to vary the terms of the sale agreement and the purchase was never completed. In addition, the works have not been operated commercially since 1996.

Currently, various issues relating to the treatment works have arisen. In recent years, those issues have become more and more complex, including the continuity of the town's water supply, responsibility for the Ibis Dam and access to the Loudoun House museum—all of which need to be resolved. It is no exaggeration to say that this whole issue is very difficult to understand given the historical decisions that have been made and it is a very complex situation now. But it needs to be resolved. The issue has been dragging on for some 20 years and it is important that it be brought to a close.

I note from the minister's second reading speech that the government has recognised Mr Hilla's ties to the community and the service and the work that he has put into the treatment works and the surrounding lands. In recognition of such, the bill provides for a permit to occupy for Mr Hilla's residence on the adjoining state land for access purposes.

I am pleased that the government has stated that the bill will be followed by measures to resolve issues such as the town's water supply and the preservation and the development of the treatment works as a record of tin processing practices dating back to the 19th century. The opposition is certainly keen for those issues to be progressed for the benefit of the local community. However, a number of issues about this legislation cause concern. I think that most members of the House would have received a communication from Mr Hilla setting out his feeling of angst at the way in which he has been treated by the state government. Indeed, I think that the chairman of the Scrutiny of Legislation Committee included that communication when tabling his report this morning.

There are a number of things that I believe the minister needs to explain to the House in the consideration of this bill. While the opposition will certainly be supporting the move to sort out this absolute mess which has developed over the last 20 years, it is important that we do that with a sense of fairness and ensure that the individuals involved, particularly Mr Hilla, are not treated in an unjust manner. It is important that it be sorted out for the benefit of all of the people of that small community. It is also important that that sorting out not be at the personal expense of one particular individual.

One of the issues of concern to me relates to consultation. Explanatory notes normally set out the consultation involved in the preparation of the bill. The explanatory notes claim that there has been extensive consultation with a whole range of people, including Mr Hilla, the Mareeba Shire Council and the local community. That claim is certainly disputed by the current occupier of the land.

There is a vast difference in the claims being made about the consultation that was carried out. In fact, Mr Hilla claims that the first he knew about this legislative solution to the obvious problem existing at Irvinebank was when he heard about it in the local media. If that was the case, that is certainly not good enough. It is certainly not good enough if this solution is being imposed upon that individual without due and proper consultation. I would certainly appreciate the minister's response to that issue. I am sure that he has that communication as well. I think it is incumbent on the minister to address the issue of just what consultation was carried out in the days before this legislative solution was decided upon.

Another issue I have some concerns about relates to compensation. In his second reading speech the minister was at pains to point something out. The second reading speech states—

It is important to note that this bill does not remove the purchaser's right to seek compensation, excluding the cancelled applications or authorities applied for by the purchaser.

That is a bit of clever wordsmanship, if you like. One cannot say with any integrity that the bill does not remove the purchaser's right except in a particular circumstance where it does remove the purchaser's right. It is that removal of a person's right to seek compensation which causes me some concern. I think it should cause concern to every fair-minded Queenslander.

It is a longstanding principle that if a government requires a property for a particular community purpose then the individual property holder should be able to seek recompense for the loss of that property for the community's benefit. At first glance at least, it seems that this case is a classic example that fits that mould. This small community of 100 or so people certainly needs this problem to be sorted out. It needs this issue to be resolved. Resolved it must be—it cannot go on in the way it has for the last 20 years—but it needs to be resolved in a way which takes into account the rights of the individual who may or may not be found to have suffered some financial loss which requires recompense.

I note from its report that the Scrutiny of Legislation Committee seems to think the compensation being talked about is either non-existent or minuscule and that in itself somehow justifies clause 6, which expressly takes away the purchaser's right to claim any compensation. It seems ludicrous to say, 'We think the compensation entitlement is either non-existent or is so minuscule that it does not matter if we take it away.'

It is for the court to decide if the compensation able to be claimed is negligible when and if the particular person takes advantage of the opportunities that are open to him—they should be open to every private property holder in Queensland—to make a claim for compensation for the property that they believe they have lost or for the disadvantageous effects that they believe they have suffered. It is up to the legal system to put a value on that. It does not particularly matter whether it is a huge loss or a small loss. The principle should remain that the individual has the right to pursue a claim for that loss if they believe that that loss has been incurred by them because of an action of the government on behalf of the entire community.

It is inconsistent with everything that I believe is fair and reasonable in dealings between an individual and a government to expressly take away that right to claim compensation. I read the minister's second reading speech two or three times, trying to find an explanation for this right to claim compensation being taken away, but no explanation has been given. Rather, we see this convoluted use of words which tries to create the illusion that the purchaser's right to seek compensation is not being removed except for the situation where it is being removed. Then there is no explanation at all about why it is being removed in that particular instance.

I have not heard any argument to justify the inclusion of that paragraph in clause 6. I will certainly be pursuing that issue with the minister at the committee stage. It is important in philosophical terms and in terms of dealings between the government and an individual that they have integrity and are seen to be fair and reasonable.

How this particular individual is going to fare at the end of this process is something that should concern not only us in the parliament but also all property owners in Queensland because of the precedent it will set. We should not pass this particular piece of legislation without even thinking about what it means to insert an express authority to deny any claim for compensation—whether or not that compensation can be claimed or whether or not the particular person can successfully mount a case for

compensation. That is something the courts should decide in the fullness of time. We will certainly be pursuing that.

I look forward to the reply to the second reading debate by the minister. I hope that it will be more detailed than the contribution he made when he introduced the bill into the House. There is very little detail in the minister's second reading speech which outlines the government's intent and position on this particular issue.

This is a complex issue that deals with some contentious philosophies, but it is important that it be sorted out. It is important for the people of that small community that it is sorted out in a way which helps to ensure the future of that particular community and allows, firstly, access to a water supply and, secondly, access to a facility which can provide a contribution to the economic base of that small community by providing a tourist attraction in the form of the heritage buildings and the historic mineral works. Just as that facility made a contribution in previous years as a mineral operation, it can make a contribution to the economic base of that small community now as a tourist attraction.

It is important that the community gets that opportunity. That is why this particular piece of legislation is in the House today—to resolve that issue to ensure that that community does get that opportunity. I would have no difficulty at all in supporting that concept, but it is also equally important that we deal with the individual person who may or may not have a claim for compensation against the government for the actions that are being taken on behalf of the community. It is important that that individual has the right to make a claim for whatever compensation he feels is due to him in the particular circumstances. There are processes and legal systems already set up which are well tried and tested to establish whether or not that claim is valid. It is incredibly important that those systems are seen to work properly and fairly to protect the rights of the individual. I will be looking for some explanations and some thorough examination of those particular elements of the legislation during its consideration in the chamber, and I look forward to a contribution from the minister in that regard.