



Speech by

Liz Cunningham

MEMBER FOR GLADSTONE

Hansard 11 May 2004

AURUKUN ASSOCIATES AGREEMENT REPEAL BILL

Mrs LIZ CUNNINGHAM (Gladstone—Ind) (3.06 p.m.): I rise to speak to the Aurukun Associates Agreement Repeal Bill and place on the record concerns which have been expressed to me in relation to the legislation directly and perhaps more particularly the concerns which the government's actions have raised with any major industry that looks at operating in Queensland. When the minister initially made his statement on 20 April a number of matters were not immediately evident. However, after discussions with quite a number of different individuals, some of those issues have since been clarified.

This legislation affects a number of companies in my electorate—companies which are large employers. Indeed, my husband, John, has worked and continues to work for Queensland Alumina for the past 20 years. The passing of this legislation will not affect the current direct employment of men or women in my electorate. Neither QAL nor the new CAR project will be denied access to raw materials, albeit that Alcan, the current owners of that Aurukun lease, have a 41.4 per cent interest in QAL. Boyne Smelter Ltd material inputs will also not be affected.

My initial concerns were that, in spite of legal processes which could be followed and indeed had been started by the government, the government has decided to take this legislative action. There have been two other times where something similar—not the same but the principle is the same—has occurred in this chamber. I cannot recall the name of the company, but a company on the Gold Coast had won a court action and the government of the day overturned that success. The second one was a small company—I believe it was a kitchen supply company—with its headquarters located on the South Bank close to the Southbank TAFE. It won a Supreme Court action in relation to the resumption of its land for the bus corridor. At the time—it was a Labor government in power—the National Party and Liberal Party, I believe, supported the overriding of that court decision and the removal of that company's rights that it had won at great cost financially. I felt at the time it was a great disservice not only to those appellants but also to the court system. It is my understanding that those appellants were not compensated for cost; I might be wrong.

Pechiney held this lease for many years with no action to activate access to the reserves. The minister, however, in his statement to parliament on 20 April stated—

When Pechiney failed to meet the 24 October 2003 deadline to surrender the lease, the Queensland government immediately started legal proceedings in the Supreme Court to enforce surrender.

This legal action, although perhaps not accepted well by Alcan, at least gave that company a legal right of reply and a process through which it could work.

The minister continued—

None of this is changed by the recent takeover of Pechiney by Alcan.

However, Alcan's comments dispute that statement. In a news release also dated 20 April, Alcan said—

Alcan only recently acquired control over the Aurukun bauxite reserves as a result of the December 2000 completion of its Pechiney acquisition. At such time, it inherited a complex legal case with the Queensland government over its rights to the reserves.

Since December 2003, Alcan has pursued, in good faith, written and face-to-face initiatives with the Queensland Government with a view to finding a path forward that would benefit all stakeholders. At no time has the Government raised with Alcan the prospect of terminating the lease through legislation. This decision has far reaching policy implications and could have serious ramifications for the mining industry in Australia.

The government seems focused on developing the Aurukun reserves and the construction of a new alumina refinery. This focus is consistent with Alcan's own agenda which makes the government's legislative intent all the more curious. Earlier this month, Alcan presented a very strong proposal to Queensland's Premier Beattie, offering an immediate commitment of AUD 15 million to complete a feasibility study on a fast-track basis to determine the economic viability of a bauxite mine and alumina refinery on the Aurukun land', said Richard Yank, President, Bauxite and Alumina, Pacific Operations.

Whilst I would prefer to see those projects proposed by Alcan placed in proximity to other plants in my area, Alcan has put a proposal to government to activate the Aurukun deposits and construct both a refinery and a smelter in that area.

It appears then that the process between Alcan and the government has been flawed in some way. I would seek clarification from the minister as to why within those negotiations the government could not consider allowing Alcan a suitable period of time to carry out feasibility studies with a caveat that the lease would be revoked if activity did not begin within a specific and achievable period of time. That would achieve the same outcome, perhaps with a little bit longer lead time, but at least give Alcan the opportunity and the time to put forward its case.

The government has said that it has taken this legislative action because of the potential for the litigation to become protracted. However, little time in the context of legal action has transpired so there is no empirical proof that the government and Alcan would be subject to increasing legal costs.

There would be many in the state who do not want to see this reserve locked up for protracted periods of time to artificially affect either the price of alumina or the availability of bauxite to new refineries or smelters which may be considered for Queensland. This is particularly applicable to my electorate where there is a new refinery in the very early stages, with land clearing and pad construction currently being undertaken, and that is the Aldoga project.

It is my information that Alcan has reserves sufficient for a period of approximately 150 years at Ely and Gove, Comalco has 200 years reserves, I am advised, and Alcoa has 150 years of reserves, I believe, in Western Australia. So I can understand the minister's concern at this significant reserve also being locked up for the already stated commercial reasons. Surely, though, there are mechanisms to avoid the reserves being locked up while still allowing Alcan a fair and just process.

All of the currently operating projects, and the Comalco Alumina Refinery, which is nearing completion of stage 1 now, will not be directly affected by this legislation. That is in terms of their input.

I could see that the action taken by government could be beneficial to the Aldoga project. However, even allowing for lead times for construction, there would still be sufficient opportunity to give Alcan an appropriate right of reply through the court system. As I said, even if Aldoga commenced its construction for what is its first project, which is a smelter, the construction time required for a refinery to be finalised would allow plenty of time for the necessary negotiations, allowing everybody a fair judicial process. The process used by government in this instance appears to be doing as much damage to government/private enterprise relationships as the locking up of the resource has done or may do in the future.

Concerns have also been expressed in relation to sovereign risk. Companies which negotiate with government in a similar vein feel that the certainty of agreements reached may be significantly undermined by the action of government in this instance. Again in my electorate we have a number of companies with overseas shareholders. These shareholders could question the security of agreements made with the Queensland government to date or in the future. In relation to these concerns, can the minister give a categorical reassurance and undertaking to companies, either state based or from overseas, that other current or future agreements will not be dealt with in a similar way, thus undermining the investment program for companies in our region.

Previous speakers for the government on this bill continue to refer to Pechiney as the entity in question. That is inaccurate. Pechiney was the target of a hostile takeover in 2003 which was finalised in December. The government must now deal, in fairness, with the new owners, Alcan.

I would also seek the minister's clarification in relation to the result of this action by government. Once the lease is taken by government and resumed, what will be the native title implications to any future company which may be interested in the deposit? What process will it be required to follow? Will it be the full native title process and, if so, has that been made clear to any companies that have shown interest?

At this point in time, in spite of the implications and the fairly mischievous way in which my position can be construed, I cannot support this action and the legislative process that the government is undertaking, particularly because of the lack of justice to Alcan but more particularly because of the undermining of certainty that it gives to companies that invest in this state, and particularly a number of large companies which invest in my electorate and which are looking for certainty, which are looking for an open-handed negotiation with government, with security that in the future agreements reached in fairness

will not be in some way overturned or dealt with in a similar way. I look forward to the minister's response and will certainly be withholding my final decision until that time.