



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard Wednesday, 12 May 2004

PARLIAMENT OF QUEENSLAND AMENDMENT BILL

Hon. P.D. BEATTIE (Brisbane Central—ALP) (Premier and Minister for Trade) (2.12 p.m.), in reply: I thank both the Leader of the Opposition and the member for Mount Ommaney for their contributions in the debate on the Parliament of Queensland Amendment Bill. As I said in my second reading speech the bill amends the Parliament of Queensland Act 2001 to reinstate a previously applicable exemption in respect of land transactions.

I note that the member for Southern Downs mentioned the issue of water rights and other rights. This matter, and any other matters relating to interests in land that may be affected, can be considered by the MEPPC in its comprehensive review of these issues. The government will consider any recommendations that the MEPPC may have in this respect when it responds to the report.

If the Leader of the Opposition looks at the objectives of the bill, it states that the bill proposes to reinstate a previously applicable exemption that was inadvertently omitted, which we have all talked about. Section 71 prohibits members from transacting business with an entity of the state. An agreement entered into by a member that contravenes section 71 can be invalidated under the terms of section 72. In addition, a contravention of section 71 can be grounds for the assembly to resolve that the member's seat is declared vacant.

This provision also existed under the previous legislation, the Constitution Act 1867. However, the previous legislation provided that this prohibition extended only to contracts for the provision of wares and merchandise. Agreements for the sale or purchases of interests in land were exempted from the prohibition.

We are going back to that position where we are talking about interests in land. I will not go over what happened here, but the effect of the inadvertent omission has been to increase the scope of section 71 beyond that of the previous applicable provisions. Section 71 now applies to cases which were specifically and intentionally excluded by the earlier provisions. The scope of the provision has been extended at least as far to disqualify members from entering into agreements with the state that involve transactions in land. The bill amends section 7 of the act to reinstate the specific exemptions concerning land transactions between members and the state.

My intention and the government's intention is clear. We are talking about interests in land. The Leader of the Opposition made reference to water rights and other rights. I am very careful not to go down the road of a property rights debate, which neither of us would want, other than to say that if the water rights are in some way associated with land transactions then they would be exempted under this legislation. When we have a look at the comprehensive review we will have a look at this again. My view would be that water rights associated with a lease or land would have to be covered by so-called land rights, if I can use a broad definition of property rights. My interpretation of these particular matters would be that provided they are associated with the land they would be covered and therefore exempt. I believe that would have been the original intention of the act.

To be perfectly frank, the Leader of the Opposition has raised a very interesting point. The logic of this is that we were talking about exempting land transactions. When this was initially drafted as part of the

Constitution it would have been intended that land transactions would have included water on the land that was being transacted. It is, therefore, not unreasonable to reach the conclusion that since land is exempted the water attached to land would also be exempted.

For example, this would mean in the case of the Leader of the Opposition—and I do this only by way of illustration because he quite rightly made a reference to his leasehold land—that his owning of the lease would be exempt and if he had water rights attached to the lease they would be exempt. This would mean that he could hold the water rights and hold the land on which the water resides. To do otherwise would be a farce on anyone's interpretation and would be simply unacceptable.

As I said at the beginning, it is quite clear that while this came out of the matters involving Ken Hayward the greater application was on the Leader of the Opposition's side of the House because of the leasehold arrangements. It would seem to me, without wanting to open up this argument about the definition of property rights which I am mindful is a big argument out in the bush, that it is not unreasonable to conclude that water attached to land and a transaction would also be exempt. I put on the record that that is my intention in relation to this amendment. That would have been the case prior to this unintended change. What was the other thing the Leader of the Opposition mentioned?

Mr Springborg: I can raise it when we discuss the clause. I asked about the issue of profit a prendre and possibly carbon trading if that ever comes in.

Mr BEATTIE: Carbon trading is a very useful one. That is one of the directions in which we are heading. I am personally committed to carbon trading, particularly with regard to what is happening with Kyoto. We need trees for carbon trading. That has to be associated with the land. Maybe in another 100 years there will be trees without land. Perhaps bioscience will take us in that direction. But in our lifetime land will be associated with trees. I think again that would have to be exempt in terms of the intention of this legislation. When they were clearing trees in the 19th century when our predecessors were in this House, they would have included trees as part of land and that would have been exempt.

So carbon trading is simply an advance in terms of how forests are treated. Again, I put on record that my intention and the government's intention here is to deal not just with land but those things that are attached to land—that, for example, may be water and things that grow on that land such as trees. I think I have answered both of the member's questions. Was there any other area he wanted to mention, because I think we should get this on the record? I think they were the two things the member raised.

Mr Springborg: That is right. I will explain myself when we get to the clauses.

Mr BEATTIE: Sure. I am happy to. We will continue this issue in debate on the clauses, because I want this on the record. I thank members for their contributions. This is correcting an oversight, and I think it is sensibly supported by all members.