



Speech by

Paul Hoolihan

MEMBER FOR KEPPEL

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COMMERCIAL AND RECREATIONAL FISHING

Mr HOOLIHAN (Keppel—ALP) (11.45 am): Fishing is one of the great relaxations for Queenslanders and a great contributor to the economy of the Smart State. Over the past two or three years both the commercial and the recreational fishing fraternities have been constrained by changes to fishing areas, bag limits for taking fish and changes to our reef and coastal zones. Even though some people believe that the restrictions went too far, they accepted them and worked within them. The local Indigenous people in Keppel, the Darumbal, also acknowledged that this accorded with their attitude towards the care of the environment. Even though they were entitled to take resources outside the terms of the act for their own use but not for commercial use, they worked to ensure that our environment would be protected. Most fishers also worked with the local Boating and Fisheries officers, who are respected for their integrity and were prepared to work with all people who enjoyed the fruits of the ocean.

That all went pear-shaped in about 2004, and the last episode was a Court of Appeal decision early in 2006. As a result of that decision—and if anyone has not bothered to read its 50 pages they should do so before they try to make any criticism or comments—some locals are relying on the findings to try to circumvent our fisheries laws. The decision was so convoluted that the Boating and Fisheries Patrol now has difficulty enforcing the act.

The case in question was *Stevenson v Yasso*. Yasso was apprehended on a Zilzie beach in possession of a 50-metre monofilament gill net. He was charged with possession of a commercial fishing apparatus as its size was in excess of the recreational size allowed. The magistrate made findings which discharged Yasso, but an appeal by the Crown to the District Court was upheld. Yasso claimed that a degree of aboriginality exempted him from the provisions of the act in ownership of the net, but the Darumbal people, relying on their own laws and customs, excluded the person from their full acceptance of him as a Darumbal person. They also gave evidence in support of the Crown case.

The Court of Appeal was divided on the subject of aboriginality, and it probably does not have any bearing on the basic argument. As I have indicated, it does show that the act needs attention. The Beattie Labor government has been fully supportive of native title rights—and I do not want this to become an argument over native title rights, although some attention may need to be paid to section 14 of the Fisheries Act.

The real problem relates to commercial aspects of any taking of seafood product. I am aware of the implications of the appeal court decision if nothing is done, but the rogue element has stepped up its actions claiming the decision allowed them all sorts of rights to take any type and size of fish. They have streamed a 150-metre monofilament net from a groyne at Keppel Sands, and I have also received details of commercial netting by them in the Fitzroy River. I have also been informed of the commercial sale of their catch.

As a result of the disagreement among the members of the Court of Appeal, it became obvious that the act needs attention. A belief that that disagreement gave some right to people to rape our resources has been the major basis for the current spate of breaches. We have stranded our Boating and Fisheries officers in no-man's-land, and that has to end. The act needs amendment to refine the commercial

aspects. There is not one law for one people and one for another, as has been claimed by people in my electorate and elsewhere.

The doctrine of the separation of powers states that we legislate, courts adjudicate and our departments administer our legislation. If acts need attention, we fix them so that all our citizens benefit from our actions and those who want to work in a twilight zone and break laws because it suits them can bear the brunt of the full force of just and equitable laws; so that our administration staff have certainty; and so that the court will have its own certainty.

The Darumbal people do not want commercial activities. Our Boating and Fisheries Patrol needs the certainty I mentioned in the terms of the legislation we pass and which it must enforce, and our resources need the protection which I believed had come from the Great Barrier Reef green zones and other fisheries provisions. Those who seek to subvert any legislation because of inconsistency deserve what they get. The rights of the Darumbal people would be enhanced by clarification of the commercial application of the act and mainly in respect of the native title rights.

On a final note, this difficulty relates only to the peculiar circumstances of this matter. I say to anyone who wants to extend any of my comments to other legislation or start some argument about native title rights—don't. It will only prove that there are too few villages and so many idiots.