



Speech by

Peter Lawlor

MEMBER FOR SOUTHPORT

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LAND COURT AND OTHER LEGISLATION AMENDMENT BILL

Mr LAWLOR (Southport—ALP) (4.14 pm): The effect of the Land Court and Other Legislation Amendment Bill will be to confer the jurisdiction of the Land and Resources Tribunal, except for the alternative state provisions, on the Land Court. It is proposed to confer the jurisdiction with respect to the alternative state provisions on the Land Court in two stages. The first stage includes a repeal clause in the bill, which will retain the Land and Resources Tribunal Act 1999 until 31 December 2011. This will ensure that the Land and Resources Tribunal will continue to exist to deal with the alternative state provisions for the maximum duration of the tenements that were or could be granted. The second stage of the scheme will be to repeal the alternative state provisions in the LRT Act through the mechanism of a repeal clause which will result in the abolition of the LRT. If all the ASP matters cannot be resolved by the proposed repeal date it may be necessary to amend the legislation.

The merging of these jurisdictions will result in a more efficient use of taxpayers' resources. The tribunal has had surplus resources for many years. Despite extra jurisdiction being conferred by various pieces of legislation, the tribunal's workload has never fully occupied its members. In 2005-06, 220 new matters were received by the tribunal. In the same period the tribunal completed 199 matters. Of these, 65 were dealt with on the papers and without an oral hearing. There were two matters referred to mediation. Neither of these matters was resolved. It is unlikely that the workload of the tribunal will increase in the future. In comparison, 2,191 matters were lodged before the Land Court in the 2006 period. Of these, 1,035 were disposed of by the court.

Other areas of the justice system have also sought extra resources, notably the District Court of Queensland, which conducts circuits all over the state. The amalgamation will provide judicial resources where they are needed—that is, in the Land Court and the District Court—and there will still be extra capacity in the Land Court to deal with resources matters.

The bill will affect the rights of existing parties to matters before the LRT which will now be dealt with by the Land Court. In order to cure any procedural deficit, the Land Court will have a wide power to make directions. In addition, the bill has been developed recognising the convention to preserve judicial independence and according to which a judicial officer appointed to a body which is abolished should be offered reappointment to a different body on terms no worse than they previously enjoyed. The bill seeks to apply that principle to the current members of the LRT—the president, deputy president and the mining referee. This principle is being applied even though there is a view that it does not apply to members of the tribunal.

The Land Court is a specialised judicial tribunal established under the Land Court Act 2000 and is a court of record. It has been in existence for over 100 years, having first been established by the Land Act 1897. The Land Court hears and determines matters relating to valuation and natural resources issues under 35 state acts. Sittings are held in Brisbane, principal country towns and smaller centres where courtroom accommodation is available. The Land Court has an unlimited monetary jurisdiction. There are currently four members of the Land Court. A judicial registrar performs pre-trial case management and limited decision making.

The LRT is an independent statutory body established as a court of record under the Land and Resources Tribunal Act 1999. The establishment of the LRT in 1999 provided a specialist body to deal with matters involving mineral resources, environment matters and some Indigenous matters. The monetary jurisdiction is unlimited. There are currently two presiding members. The mining referee is appointed as a non-presiding member of the LRT. The tenure of the mining referee is five years and the current mining referee's tenure expired on 16 July this year.

The LRT was originally intended to be an independent decision maker for certain matters under the Native Title Act 1993. The Commonwealth made a determination on 31 May 2000 that the provisions listed in the schedule to the determination complied with the NTA. These are known as the alternative state provisions. From 31 March 2003 the Commonwealth's right to negotiate provisions applied to new mining tenement applications and the LRT ceased to have jurisdiction going forward. The ASP applications were intended to be the primary jurisdiction of the tribunal. As a result of losing this jurisdiction, the anticipated workload of the LRT was reduced and the resources of the LRT have since been underutilised. However, the government has sought to resolve this by conferring other jurisdiction on the LRT and appointing its members as part-time members of the Land Court. However, the LRT continues to have surplus capacity.

There has been wide consultation with affected members of the LRT, the chief judge, the president of the Land Court and the mining referee. The Queensland Resources Council, the National Farmers Federation and AgForce have also been consulted and support the amalgamation. Officers from the office of the Commonwealth Attorney-General have been consulted and taken through the bill. The Queensland Attorney-General has assured the Commonwealth Attorney-General that arrangements will affect the Commonwealth determinations.

Another issue covered by this bill is the amendment to section 6 of the Magistrates Court Act 1991 which will give retired magistrates the opportunity to continue to use their expertise in the dispatch of court business as and when required by the court. This highlights once again the Attorney-General's determination to ensure the courts are supported to fulfil their important role of serving the community and providing a safe and accessible justice system.

As well as assisting the courts to achieve timely and efficient turnarounds for court matters this amendment will achieve several benefits for the citizens of Queensland. These include that it will increase the pool of suitably qualified persons to serve our Magistrates Court in its capacity as the busiest court in Queensland. In a state as geographically large and decentralised as Queensland it is essential to have a sufficiently large pool of acting magistrates to constitute the court in the absence of its permanent members. It will ensure that the time for the turnover of cases at the Magistrates Court will not increase but remain at its current level.

These acting magistrate appointments will be spread throughout the state and will benefit city, regional and rural areas. All acting magistrates will be required to preside over cases throughout the state as the needs of the court require. Retired magistrates have a wealth of experience and will be able to hit the ground running as acting magistrates.

The process for appointing acting magistrates will involve consultation by the Chief Magistrate with the Attorney-General. Appointment will be for a specified period to be determined by the Attorney-General. Once the acting magistrates have taken the oath of office they will form part of a panel with the current magistrates. They will be active to serve the court as required in the same manner as is presently the case. This is another example of the government's determination to ensure that the courts are fully supported to enable timely and effective access to justice to all Queenslanders. I commend the bill to the House.