

## **Extract from Legislative Council Hansard**

### **ABORIGINAL LANDS AMENDMENT BILL 2004 (No. 69)**

#### **Second Reading**

**Mr PARKINSON** (Wellington - Deputy Leader of the Government in the Council) - Mr Deputy President, I had mixed feelings as to whether I would speak on this debate tonight or tomorrow or even at all. For me this is, I think, the third time that this issue has been debated in this House since I came in here in 1994. Over a 12-year period I think this is the third time, certainly the third major time it has been debated.

My ideas have not changed a lot and as I sat there in my place tonight I wrote down a speech, a few headings, things to jog the memory, and one of the first things that I wrote down was 'history' because it seems to me that all of us come to our present view, our present state of mind because of history in one way or another. It is either our knowledge of history or the history that we have lived ourselves since we have been able to remember it, so some of us have had more history in that respect than others in this place and some of us have a broader or narrower knowledge of history, different topics as the case may be.

We all collectively bring a pretty vast knowledge bank of history into this place. One of the things that I recalled as I sat there was that I did learn at one stage along the way that early British admiralty reports from the ships that first came to this country reported back to mother England that this land was unoccupied. Of course, because they formed that view early in the piece that it was unoccupied land, they were able to cede the land to the Crown, the British Crown. That meant they were able to say that this land is now owned by Britain. Other lands that the same forces or branches of them visited or occupied, such as the US and New Zealand, were not able to annex, as it were, in that way because the occupants were more warlike, particularly the indigenous Indians in the US who had far superior weaponry to the Australian Aborigines and so too did the Maoris in New Zealand - far superior weaponry to those people who did occupy this land.

Maoris and US indigenous people through the wars that they fought negotiated treaties so they came to a position which defined their rights to own and occupy land. Of course in the case of New Zealand there were fishing rights and so on. That little bit of history that I learnt along the way has helped me in some ways to shape my current attitude on this question. But the Brits who settled here were the original occupying forces, and they were occupying forces because they had a very clear plan to occupy before the French did. The sealers had been out here before that and it was seen as a place for lots of good products and also as a stopping-off point for trading ships that were heading to the Middle East and so on. It was seen as a place that they needed to get hold of before particularly the French.

They decided it was unoccupied so it was annexed to the Crown. They discovered some time later that there were in fact inhabitants. The estimates varied, but I have heard figures of 300 000 as being the original population of Australia. Despite those early conclusions, current wisdom, current learning says that this was in fact an occupied land. Many things have sprung out of that, including moves in the legal profession. I was part of that profession since about 1978 before coming to this place in 1994, if you take the period of study until about 1995 by way of practice and then I did not renew my practising certificate about 12 months ago, so I have been associated

with the legal profession for a long time. That is not the only profession that I am proud of having association with. I started off as a public servant and I was a union organiser and of course now I am a member of parliament and I am proud of all of those occupations. Along the way you learn a bit of history, which is the point I am making.

**Mr Wilkinson** - Is that what you are getting at? I wondered what the point was.

**Mr PARKINSON** - The legal profession has tried, as it often does, to solve the problems of society and of course it culminated on this issue with the High Court case of Mabo. The problem with Mabo is that it said that if you can establish a line of continuous occupancy since before the white man came till the date of your claim then under our Constitution we will give you title to your land. That is the one way in which title has been given back, but of course the High Court judges in Mabo -

**Mr Fletcher** - It wasn't a freehold title?

**Mr PARKINSON** - No; nevertheless, a title. The same judges in Mabo of course foresaw through their judgments, if you read them, the need, as it were, for more to be done. They said it was now up to parliaments, the people's representatives, to somehow solve this problem, to reconcile the issues that the still remained. That was some time ago but again my own sense of history takes me back to about 1971 or 1972 when I first went to Canberra and I was aware that a small group of Aborigines had pitched a tent on the lawns in front of Parliament House and had this funny notion of land rights. They put up flags and posters. Bleating Billy McMahon decided they should not be there and sent out the police to remove them. In fact at one point he succeeded in removing them.

That generated a bit of anger across the country and it was not long after that that bus loads, train loads, people on foot - thousands and thousands of them - came from everywhere from as far north as Maningrida. I know there were some from Maningrida because one of my mates and I were renting a beautiful house owned by a doctor who had been off practising on Norfolk Island, if my memory serves me correctly. A group of five of us managed to rent this house - two-inch plush pile carpet, ducted heating in every room - a pretty swanky house in Astley Place, Garran, ACT. One of these mates of mine landed home one night with three Aborigines in his car and he said to the group of us in the house, 'These three blokes need a bed'. We did not have beds because they were all occupied by ourselves but they only wanted to sleep on the carpet. It was late at night, they occupied some carpet space and they were there for what was to be the march - it was a big march, too. I got up the next morning and just happened to notice that one of them had part of his heel missing. I was promptly told that he no longer had leprosy, he had recovered from it, but there was this heel - it was like a piece of mangled fishing cork - and he was walking on it. The three of them were barefooted because they came from Maningrida.

The other thing I remember from around that time was one of these young fellows walking around the kitchen the next morning, wide-eyed, saying, 'A black fella will never have a house like this' and, as history has demonstrated in the 30-something years since, he was pretty right. I do not know of any blacks around the country who, to this day, have a house like that one that we were renting at the time.

As I say, it was a big march. There were something like 20 000 people, black and white, who marched on Parliament House and the Aborigines were allowed to reset-up their embassy. I was

up there the other day for a meeting and I smiled to myself when we did a tour of the old Parliament House and I looked across to the lawns and there it was, still there, the old embassy.

I have mixed feelings about whether it ought to still be there and maybe they got their message across, and so forth, but they are allowed to stay there and they still sing the same message and, to some extent, the same message needs to be sung because, despite the passage of history and time, the cause of land rights has not progressed very far.

So it is back to Parliament and when we think of the history of Tasmania, if we want to say the place was unoccupied, I have heard figures varying between 3 000 and some other figure above that of indigenous people here when Captain Cook first came around about that time so conventional history would accept that it was certainly occupied. We know, of course, that going back - way back - there was the land bridge between Victoria and Tasmania and of course Flinders Island and Cape Barren were part of that land bridge and it formed the route by which people would have travelled from one landmass down here. So it was all part of the one occupied land, which of course the Brits said was not occupied, so it was taken off them - history now knows.

Where does that bring us? I am simply churning through my own pattern of thought on this and not trying to influence anybody but -

**Mr Harriss** - So are you undecided at this stage?

**Mr PARKINSON** - I will certainly listen to the debate after I sit down.

**Mr Harriss** - You had some strong words to say last time, I do recall.

**Mr PARKINSON** - But I have also received a letter from the Archdiocese of Hobart. I do not usually take notice of letters that I am handed in the Chamber during debates but nobody else has read it so I will read it into *Hansard* shortly.

**Mrs Jamieson** - We left something for you.

**Mr PARKINSON** - Thank you. But it seems to me - and I will not take very much longer - that the division we are still left with ought, as far as the Parliament is concerned, be the thing that unites us as the leaders of the community, not the thing that divides us because it just seems to me that when the community is divided on issues as important as this then it is up to the elected leaders of the community to say, 'All right, you cannot make up your minds. You are pretty well evenly divided across the board and we will decide for you.'

**Mr Dean** - That's if they are evenly divided.

**Mr PARKINSON** - Well, even if they are not evenly divided. If there is division which is going to continue, and it seems to me that division will continue ad infinitum unless leaders make decisions on this issue, if the leaders of the community wait for the divisions to resolve themselves it seems to me that the right thing will never be done.

**Mr Dean** - But on the figures we've been given the division's about 20:80.

**Mr PARKINSON** - We are dealing here, I think, with a dying race.

I have a mate who was with the Flying Doctor Service who now is with a private company and does the same work and he works three weeks on and three weeks off. He comes back to Tasmania for his three weeks off, goes to Alice Springs and drives into communities hundreds of miles away - a doctor who comes back with stories about this dying race. These people are heavily diabetic, have a high incidence of limb loss, have a high incidence of blindness and in his estimate are lost but all he can do is handle the existing problems. There is nothing, in his opinion, that society can do that will save these people. In his opinion, they cannot be educated because they do not fit into our education system. They have their sense of values - simple things such as they will not eat camel because it is their tradition to eat kangaroo and when there is no kangaroo about they starve because they will not eat camels but there are plenty of them about.

It seems to me that the culture that we belong to in Tasmania particularly has a long history of destroying the culture that was here when our culture arrived. I accept that we do not have to feel guilty about it; I do not personally feel guilty about it but it seems to me historically, having a sense of history what we need to do is say, 'All right, this is the position, this is how it happened. What can we do about it?' If we are going to sit back and say, 'People cannot really make up their minds about this so we will not do much either', it seems to me that that is the stage we get to when we cop out as well. I think that as leaders of the community we owe it to the people we represent. I think we owe it to history. You cannot change history, I accept, but we can make it and we make it here, day in and day out, and we can make it again and we can make it on this issue, in my view, by doing the right thing, quite simply by doing the right thing.

It seems to me that when there is this division in the community that that is what we have to do. We need to decide what is right and to make a decision accordingly, recognising - and this is the way I rationalise it - that this division will be there forever and a day. Unless we act then the problem will not be solved. I do not believe this will solve the problem either but it goes some way towards the notion of handing back something that should never have been taken and that is the big issue in my mind. The Mabo case legally has tried to do that but I come back to the fact that those learned High Court judges said, 'We cannot solve the whole problem; it is over to you members of parliament to solve the problem'. If members of parliament decline to solve the problem then, of course, nothing positive will be done. I think we have to lead and we need to lead now.

The letter from the Archdiocese of Hobart is addressed to myself as the Deputy Leader of the Government. It says:

'Dear Mr Parkinson,

I write to you as the Deputy Leader of the Government in regards to the Aboriginal Lands Amendment Bill 2004.

As you are aware Tasmania has been inhabited for over twenty thousand years and today there are many people in Tasmania who are able to trace their ancestry, culture and history to the original custodians of this great and beautiful island. Today, I believe, you have a most important and significant responsibility as a member of the Legislative Council in forming a positive framework for the future harmonious and united development of Tasmania where all people can live in mutual peace and security, accepting individuality and respecting each other.

A basic and fundamental belief of the Catholic Church is that all people are born equal in the eyes of God and each person is unique and has been blessed with gifts and talents. The gifts and talents of all people in a free and just society are able to contribute to the common good of each person and the community as a whole.

The Aboriginal people of Tasmania today are again seeking possession of several parcels of land that are of significant importance to them as individuals and as a community. They advocate that there is a sense of morality in returning these lands to their custodianship and in so doing there is a very significant act of reconciliation towards their ancestors and all Aboriginal people of Tasmania. The Catholic Church recognises that injustices have been done against Aboriginal people and their families since the arrival of explorers and settlers from Europe and the Church is working actively both within its community and the broader community supporting and structuring reconciliation with our Aboriginal brothers and sisters.

I urge you most sincerely to listen to the voices of our Aboriginal brothers and sisters who have endeavoured tirelessly over the past ten years to present their reasons and feelings openly and hopefully to the people of Tasmania in their quest to have these parcels of land returned to their custodianship.

I pray that you will consider most carefully the voices and future aspirations and hopes of our Aboriginal brothers and sisters and guide all Tasmanians to a greater awareness of the history and culture of the Tasmanian Aboriginal community, which is also part of all Tasmanians' history, and culture.

Yours sincerely,  
Adrian L. Doyle  
Archbishop of Hobart.'

For the record, I will give it to Hansard.

I come back to the final point that I made. Honourable members, I think that it is time for us to lead on this issue by supporting the bill.