



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

GRIEVANCE DEBATE

Australian Ex-Prisoners of War Memorial

SPEECH

Monday, 12 February 2007

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Monday, 12 February 2007
Page 80
Questioner
Speaker King, Catherine, MP

Source House
Proof No
Responder
Question No.

Ms KING (Ballarat) (5.44 pm)—I rise to speak in this debate to give voice to the grievance of hundreds of Australian ex-prisoners of war and their families at the government's continued refusal to have the Ex-POW Memorial located in Ballarat declared a national memorial. The government's sheer obstructiveness on this issue is extremely disappointing. Given the age and frailty of our former prisoners of war, there is some urgency in having this matter resolved.

The memorial, which I will describe for those of you who have not visited Ballarat, is breathtaking. It is a fitting memorial to former POWs across all conflicts and from across the country. Located in the surroundings of the Ballarat Botanical Gardens, the POW memorial uses the basic idea of a journey. The creator, Peter Blizzard, started a pathway, long and straight, interspersed with shapes like railway sleepers—a reference to the Burma railway. Running parallel to the pathway is a polished black granite wall 130 metres long, etched with the names of all 35,000 Australian POWs. Standing in a reflective pool are huge basalt obelisks, up to 4.5 metres high, with the names of all the POW camps. One is fallen, to reflect the some 8,600 POWs who never made it home. The columns are out of reach and across the water, symbolising that all the POW camps were away from Australian shores. Further on there is another wall, engraved with the words 'Lest we forget', allowing for an area of contemplation and reflection on the 35,000 Australian POWs and their individual stories. It is a truly impressive and moving piece of sculpture, steeped in significance for the hundreds of families of POWs across Australia.

It was built in Ballarat for several reasons. Firstly, there was a large group of ex-POWs in Ballarat who were determined that there be a national memorial that, unlike the Changi Chapel here in Canberra, contained the names of all former POWs and recognised all conflicts and all camps in which Australians were incarcerated. The second reason was that this group was extremely dogged. They were able to obtain funding from private fundraising and all levels of government. It took them some 10 years, some of the group not living to see it built. But, finally, in a ceremony in front of over 10,000 ex-POWs and their families, the then Chief of the Defence Force, General Peter Cosgrove, the then Minister for Veterans' Affairs and the Victorian Premier, the memorial was opened.

The third anniversary of the opening of the Australian Ex-POW Memorial was on 4 February, and I welcomed the decision by the Minister for Veterans' Affairs to make his first official visit to the memorial to commemorate that anniversary. It raised some hope with the ex-POW community that the minister might be bending slightly in his decision not to grant national status to the Australian Ex-POW Memorial. Much to the frustration of many veterans and their families, this was not the case.

When the member for Dunkley became the new Minister for Veterans' Affairs there were some within the veteran community who hoped this might signify a change in government policy with regard to naming the Australian Ex-POW Memorial in Ballarat a national memorial. On his recent visit to Ballarat the minister not only again refused to recognise the memorial as a national memorial but claimed, in comments that can only be described as breathtakingly flippant, that Ballarat would have to become part of the ACT if it were ever to become a national memorial; that the advice given to me from the Parliamentary Library and also from Duncan Kerr MP, the member for Denison, in his capacity as state counsel, that counters the minister's argument of legislative impediment was 'dodgy'; and that ex-POWs were really only after the government's money. I want to correct the minister on each of these points.

There is no legislative impediment to the Commonwealth establishing, funding, listing or recognising a memorial outside of Canberra as a national memorial. There are two laws that are relevant to the case: the National Memorials Ordinance 1928 and the act it is made under, the Seat of Government (Administration) Act 1910. The sole purpose of the ordinance was and is to provide a mechanism to plan for and settle any issues relating to the location and character of national memorials and the like in the ACT. In other words, if the Commonwealth wants to build a memorial on national land in the ACT then, under the ordinance, there is a plan and process established for doing so. There is nothing in the ordinance that limits the power of the Commonwealth to only establishing national memorials in the ACT. In fact, if there were then the government would have had to repeal

the ordinance in order to build the national memorial in Hyde Park in London. It is absolutely bunkum for the minister to suggest otherwise.

The other important point is that as the ordinance is made under the Seat of Government (Administration) Act 1910, a reserved Commonwealth law, then as delegated legislation the ordinance may not exceed the authority granted by the principal act under which it was made—that is, even if the minister's claim were correct, namely, that the ordinance did seek to restrict national memorials to the Capital Territory alone, then it would have no legal effect because in doing so it would have exceeded the bounds of power of the Seat of Government (Administration) Act 1910. For the minister to make the claim that the land the Australian Ex-POW Memorial in Ballarat sits on would have to become part of the Australian Capital Territory in order for it to be recognised as a national memorial is simply wrong in law.

The minister was provided with this advice more than 12 months ago. He has failed to reply to my letter or even to acknowledge that he received the letter providing him with this advice. He has failed to produce any alternative legal advice. Instead, he has sought to repeat incorrect information on every occasion he has been asked about this issue. The reality is that the minister's refusal to recognise the Australian Ex-POW Memorial as a national memorial is a policy decision, not one constrained by current legislation. That being the case, the minister, instead of deliberately trying to hide behind incorrect information, should be honest with the ex-POW community and simply say: 'No, I do not want to recognise the Australian Ex-POW Memorial in Ballarat as a national memorial. I have no intention of ever doing so.'

The minister has also accused the POWs of simply being after the money to maintain the memorial. That is simply not the case. It is not their motivation in seeking recognition for the national memorial. The fact that the City of Ballarat has budgeted for the memorial's maintenance in its forward budgets for the next four years should put paid to the minister's concerns.

Finally, the minister is also concerned that recognising the memorial in Ballarat would open the floodgates, with other memorials across the country seeking national recognition. It is highly unlikely that this would be the case. There are very few memorials across the country that reflect an entire population of veterans from across the country and from across all conflicts. The one that springs to mind and that I have visited is the wonderful memorial in Albany that recognises the departure of our troops for Gallipoli. I think that that, rightly, would be one of the memorials that should also be recognised nationally. It would be a simple matter for the government to put in place a set of guidelines for national recognition and to seek advice from the RSL and other ex-service organisations as to what would be appropriate. The minister seems to see the memorial in Ballarat as just a Ballarat memorial. What the minister has failed to see despite visiting the memorial, where he saw families and ex-POWs who had travelled from across the country to attend the third anniversary, is that the Australian Ex-POW Memorial is not a local memorial for Ballarat ex-POWs but a memorial for all Australian ex-prisoners of war.

There are, of course, many local memorials across Australia, but there are very few national memorials. The Ex-Prisoners of War Memorial in Ballarat recognises over 35,000 ex-POWs from every corner of Australia. It was developed by ex-POWs and has the endorsement of the Ex-POW Association of Australia and the RSL. In fact, the memorial would not have been built at all without the endorsement of those two organisations. To recognise the ex-POW memorial in Ballarat as a national memorial would not in any way detract from Changi Chapel in Canberra but would recognise that ex-POWs are best placed to determine what they see as another national memorial honouring their experiences.

The minister has at times accused me of whipping this issue up, but I say to the minister that what I am doing is his job—speaking on behalf of ex-prisoners of war from my constituency and beyond. It is the minister and this government that are out of step with the veteran community on this particular issue. My advice to the minister is this: he is the Minister for Veterans' Affairs; it is his job to promote the rights and needs of veterans within the government. This means he has to stand up for them, he has to go into bat for them and he has to sometimes tell his department and the Department of Defence that they are wrong. On this issue Labor have repeatedly said that we will recognise the Australian Ex-Prisoners of War Memorial in Ballarat as a national memorial. It is the right thing to do and I again call on you to do the same.