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PARLIAMENTARY DEBATES



THE SENATE

BILLS

**Wild Rivers (Environmental
Management) Bill 2011**

In Committee

SPEECH

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BY AUTHORITY OF THE SENATE

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Speaker Xenophon, Sen Nick

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Senator XENOPHON (South Australia) (10:13): I would like to make a few comments about the Wild Rivers (Environmental Management) Bill 2011 and about the opposition's amendments that I believe deal with a number of the concerns that have been raised with me about how consent will be achieved, because that is a key issue here. I want to deal with some of the concerns of Senator Fielding that were also raised by Senator Furner. Let us put this in perspective. In the absence of a wild river declaration these pieces of legislation apply to the land in Cape York and areas that could be subject to wild river declarations: the Coastal Protection and Management Act, the Environmental Protection Act, the Fisheries Act, the Forestry Act, the Fossicking Act, the Land Protection (Pest and Stock Route Management) Act, the Mineral Resources Act, the Nature Conservation Act, the State Development and Public Works Organisation Act, the Sustainable Planning Act, the Transport Infrastructure Act, the Vegetation Management Act and the Water Act. There are currently 13 pieces of legislation in place that provide safeguards for the environment. The fundamental flaw is that there is a lack of consultation and consent with the Indigenous owners of the land. That is what I find objectionable about the Queensland legislation.

It is rare in this place for senators to be asked to decide between a perfect outcome and a disastrous one. Typically the decisions we are asked to make come down to deciding which way forward will bring about the better outcome—not a perfect outcome, but a better outcome. I want to refer specifically to clause 6 of the bill, because we are in committee, and the way it addresses the issue of consent. There has been a lot said in this debate, and I believe the coalition's bill has been unfairly characterised in some quarters. Let us be clear what this bill does and does not do: it does not prevent the Queensland government from making wild river declarations; it simply requires the Queensland government to seek consent from traditional owners of that land before it makes a declaration. You just have to ask first.

The government has argued that other members of society do not have this right of consent and that if a government wanted to build a freeway where my house is it could compulsorily acquire my land. This is a spurious argument for a number of reasons. Firstly, if the government wants my land to build that freeway, they take over my land. With wild rivers declarations the land is not taken over, but the government does tell you what you can and cannot do with your land. Moreover, if the government wants that freeway, they have to pay me just compensation for that land. With wild rivers there is no compensation, you just lose your rights.

The government has said that traditional owners can seek exemptions from a declaration, arguing that more than 100 have already been granted. It is something that my friend and colleague Senator Fielding referred to. But as Balkanu CEO Terry Piper has pointed out, nine of those were for one fence. And as Noel Pearson has also pointed out, the vast majority of those permits have been granted to either mining companies or state government departments. Surely this supports the argument by Indigenous groups that the application process is so complex you need the resources of a mining company or a government to go through it.

There is another issue here. Senator Fielding made the point: let us help people navigate through the wild rivers declarations. I say this, understanding that Senator Fielding is absolutely genuine in his concerns: but you are asking people to navigate where there are so many obstacles, where the boat you are given in the first place is so leaky by virtue of these wild river declarations, it is setting up impossible obstacles for these communities.

In January this year I travelled to Cape York Peninsula where I met with both supporters and opponents of the coalition's bill, and I must say wherever I went—and I travelled freely and consulted widely—I met a lot more supporters than opponents. One of the supporters was Bruce Martin from Aurukun, who I met again last night. He is one of the new generation of Indigenous leaders. He is articulate, he is smart, he is passionate about the possibility for real economic development. He wants to do something about the horrendous unemployment rates in his communities—70 per cent, 80 per cent unemployment rates. We all do.

Senator McLucas: Everybody does.

Senator XENOPHON: Senator McLucas says, 'Everybody does,' and I agree with that. There is no issue about the genuineness of both sides of the house wanting to deal with the shocking rates of unemployment and disadvantage in those communities. Incidentally, former senator Brian Harradine danced with members of the Aurukun community here in front of Parliament House over native title.

Bruce and his community have big plans for Aurukun, and they have mapped a path forward. Bruce says they want to look after country. They also want to get young people back to country to strengthen and maintain culture. They want to create training and employment and they want to do this by utilising the one asset they have—their land—to be able to provide for their families.

Bruce and almost all of the Indigenous people I have spoken to on this issue argue that the wild rivers legislation is an impediment to achieving this. For example, the Aurukun people are exploring the option of a cattle destocking project that would manage the 10,000 to 15,000 head of feral cattle and 5,000 wild brumbies that are currently destroying the environment up there. Over three years they want to remove 95 per cent of feral animals from key cultural and environmental areas, creating jobs and restoring their country, and providing food for their community. But plans like this, which has the support of backers like philanthropist Paul Bendat, are threatened by wild rivers declarations. Yes, the Aurukun people can attempt to seek an exemption, but there is no guarantee that they can get it. And they can argue the costs involved make it beyond their reach.

Bruce said something else that has hit home about the Wild Rivers Act. He said to me that the Queensland wild rivers legislation, like native title more broadly, only entitles him and his community 'to be native'. He went on to say:

It is now the 21st century. We need the outside world to stop viewing us as the 'noble savage'. What we are trying to do now is to keep our culture strong, stay committed to the traditions and beliefs of our ancestors and to look after country and utilise our land, but with all the benefits of modernity. Old and new in partnership.

I believe we need to be careful that our laws do not stand in the way of these fine aspirations.