

SECOND READING DEBATE: Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005

Mr ANDREN (Calare) (7.52 a.m.)—I recognise the political imperatives of the former speaker, the member for Batman, but I strongly disagree with his assessment of the multiple land-use options—for Burrup Peninsula in particular.

It is an invidious thing to have to pass heritage protection legislation that ensures that rare and important artefacts originally expropriated from Indigenous Australians be returned to those overseas galleries and museums that claim ownership of them. **The Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005 says more about the value we give to museums and exhibitions than it does about our regard for in situ sites of Indigenous significance across this country.**

As is the case the world over, so many objects from ancient worlds and cultures have been swindled and stolen from peoples who did not have the power to stop that swindling and stealing. We now have sites that are stolen with little or no regard for Indigenous heritage. Over time, these precious items that we are talking about in this specific legislation—these records of cultures—have become the legal property of overseas institutions, often by dint of those institutions belonging to the countries from which the plunderers and collectors came or by those institutions having more money than the descendants of the original owners could ever dream of having. The famous nonreturn of the Elgin Marbles is but one case in point.

However, the sad reality is that, unless those lending institutions have a legal guarantee that such lent objects will be returned, those countries of origin, including Australia, will lose any opportunity to see those items again. This was clearly demonstrated two years ago when descendants of the Dja Dja Wurrung people in Victoria sought the preservation and compulsory acquisition of bark etchings and a ceremonial carving made by their forebears. These rare and important objects were lent by British institutions to Museum Victoria. While the resulting court case dissolved the section 10 emergency declarations and the items were subsequently returned to Britain, this case was used overseas as an example of why art galleries and museums throughout the world should consider the risks involved in lending art overseas, notwithstanding the lack of moral claim to that art. In fact, the cultural and historical significance of these artefacts to the traditional owners is far beyond the Western value attached to their rarity and history, and this should be recognised and acted upon.

However, the sad consequence is that an estimated 40,000 other Indigenous objects and human remains held in overseas institutions may never be seen in Australia again, should Australia refuse to guarantee the return of such lent objects. Consequently, many collectors, museums and art galleries would be reluctant to lend objects and artefacts to other countries of origin also.

This bill then provides for a certificate under section 12 of the Aboriginal and Torres Strait Islander Heritage Act allowing a person to import Australian protected objects for temporary purposes and, subsequently, to export those objects, even where an emergency declaration seeking to protect or preserve areas or objects is issued. It would seem in this scenario that we have no choice but to entrust the protection of these precious objects to those overseas institutions and to continue to strongly support efforts to repatriate rare and sacred items. I also sincerely hope that the Victorian heritage legislation that will replace the protections of part IIA of the current act—the section repealed in this bill—will offer effective and responsive protection of places and objects of an Indigenous cultural significance in that state. Certainly, the enactment of its own Indigenous heritage protection laws in Victoria is consistent with other states' enactment of protection laws.

While the issue of nationally consistent and effective protection for Australian heritage—both Indigenous and, more recently, non-Indigenous heritage—is a moot point, we do have a very real ability to ensure the protection of places and objects that are in Australia, some of which are ancient indeed. It all boils down to political will. Indeed, our Prime Minister was determined to save the Kokoda Trail—some 60 years old—in Papua New Guinea from the ravages of gold mining that is said to be worth over \$1 billion to the PNG economy. This is certainly a show of commitment to our very recent history.

But consider this: 60,000 years ago, people had already migrated thousands of kilometres from the north of what was then greater Australia and were living in New South Wales, leaving their footprints in the mud of Willandra Lakes over tens of thousands of years. Rightly, Willandra Lakes is a declared world heritage area and it cannot be lifted up and exported for the edification of museum visitors around the world. By comparison, 60,000 years ago, man had not even reached northern America and in Europe they were just starting to live alongside Neanderthals. The world was in the middle of an unstable series of ice ages that had started a thaw and rising sea levels, which took another 40,000-odd years to stabilise. It was 30,000 years ago that the last Neanderthals died out. It was 10,000 to 15,000 years ago that the slow melt of the Ice Age saw the extinction of sabre tooth cats and mammoths, the rise of settled communities with agriculture and recorded story telling and myth. It was only in the last several thousand years that those great ancient civilisations appeared. In this context, those objects and places that record those very first peoples in Australia are very ancient and very precious indeed.

Most people in this parliament would agree with the imperative to protect the pyramids and ancient objects of Egypt and with the value of preserving the remains of antiquity thousands of years old. Most people would have recoiled in horror at the Taliban's destruction of the centuries-old Buddhas of Afghanistan. Some may be aware that the trade in antiquities, both legal and often illegal, is estimated to be worth many billions every year.

Yet, at Burrup Peninsula in the Dampier Archipelago in Western Australia, part of the world's largest and most important concentration of ancient rock carvings

face deliberate destruction or removal because of the refusal to relocate further development of an ill-conceived industrial complex to a nearby site. This is a place where the very first people most probably reached Australia and where they have inscribed in the rocks hundreds of thousands of images that record the extraordinary history of this amazing continent and the continuity of human use over at least 20,000 to 30,000 years. I say at least 20,000 years; it is likely far more, because 60,000 years ago people were already leaving their traces in New South Wales thousands of kilometres away.

So, at the Dampier Archipelago, strewn amongst the rock outcrops, rock piles and boulder slopes of the whole landscape are ancient campsites, quarries, shell middens, the world's largest collection of standing stones, artefacts and a bewildering array of rock art that has been estimated to contain up to a million images—areas so crowded with them that images merely the age of the pyramids or the great Etruscan or Maya civilisations have been superimposed over more ancient ones, some of them estimated to be the oldest images in Australia. This is a place of extraordinary testimony to long extinct fauna, to the changing landscape as the ice age thawed and oceans slowly rose and to the continuous use by people over tens of thousands of years.

You would think this place is worthy of absolutely irrefutable preservation. But here we had in this parliament recently changes to the EPBC Act that can make the protection of that in the short term highly dubious because of the delays built into that process and the fact that it relies on one minister, after all these tens of thousands of years, to make a decision on this process. And that is the cynicism with which the EPBC Act was amended at the very time that Woodside were in this parliament lobbying. I listened to them with great interest when they spoke about their commitment. I listened to the former speaker, the member for Batman, who spoke about the many jobs, the need for the export earnings and the fact that we have to look at ways of employing Indigenous communities—all of that. But we are, after all, talking about an item of absolutely irreplaceable World Heritage value. And yet we have not had a state government, for almost 40 years now, or a federal government prepared to begin the process of listening on a proper state and national level to preserve those inestimable values that are on that peninsula.

A few days ago I learnt that there has been an offer made by the Northwest Shelf Venture partners. BHP Billiton, to their credit, have moved their operations further to the south to avoid the damage that would inevitably be caused to this ancient site. An offer has been made to move the Pluto operations to a site to the north of their presently planned area. But does the Western Australian government seem impressed? I think not. The hysterical utterings that are coming out of their minister and the government in general show no will at all to offer the sort of protection that is desperately needed to protect this World Heritage site. The former speaker has left the chamber, but this is not about metropolitan Australians promoting a cafe latte cause, as the member for Batman might suggest; it is about serious neglect over many years that is only now being addressed through the actions of concerned people.

In the 2000 *Four Corners* program Woodside confirmed that when it developed

its massive North West Shelf gas plant those 'sites and engravings' that could not be removed were 'recorded and then destroyed', with 'a company spokesperson saying some carvings were probably used as base for the plant'. The Department of Environment and Heritage's own Australian heritage database claims 'survey, salvage and relocation' of the images constituted adoption of 'world's best practice'. Well, let others be the judge of that.

By comparison, think about the Palaeolithic Lascaux Cave paintings in France, where French governments have invested millions to protect the site, building replicas of two cave halls to ensure carbon dioxide from the collective breath of the visitors does not further degrade these precious paintings. Compare that with the Burrup and the Dampier Peninsula, where the emissions of industry are causing the acidic rain that is eating away at the surface of these very sites. We cannot lift up these sites and move them to a gallery on the other side of the world where they may be protected and looked after and not claimed back, perhaps, as the intent of this bill suggests.

We cannot do that. We have in situ perhaps the greatest gallery on the face of this planet, and here we have a debate over the worth of that vis-a-vis the undoubted worth of the exports, jobs and everything else that come from the North West Shelf. But, hey, we have options, we have alternatives, we have another way. What we do not have is the will of short-term governments that do not think beyond the election cycle of the next three years. We think only of the process that will minimise the disturbance to the industrial complex; not maximise the protection of this world important site.

It is absolutely imperative that the federal minister looks at the nomination of this internationally recognised place. He has had it since 2004. For him to wait months before listing it allows industry to buy from the government time that allows further destruction of this site. This is an example of the sort of Indigenous heritage site that I believe is an exemplar of the extent to which we have devalued Indigenous heritage in this country.

This federal act will still apply as a last resort when significant places or objects cannot be adequately protected by state or territory laws, but the sad Lake Condah and Framlingham Forest affair in Victoria, where that state's upper house in the 1980s shamefully supported non-Indigenous landholder interests over Indigenous people's legitimate heritage claims, could well be repeated elsewhere in Australia. Burrup is at the absolute extreme of that argument.

There is a huge gap in the recording and protection of Indigenous sites across Australia, with local government particularly remiss in its care and consideration of significant sites, which are often regarded as substantially less significant than development priorities. While we have opportunities in the areas of Australia with traditional occupation—even those fractured by, as in the Burrup case, the noncontinuity of people's occupation of that area—to intervene before it is too late, in the southern and south-eastern portion of the continent Aboriginal people's identity and their connection to that land has been, as was quoted in the Yorta Yorta case, washed away by the tide of colonialisation.

Sites have been discovered recently in my own electorate—modern Indigenous sites of camps made during the Depression years. The member for Batman mentioned the employment disadvantage of Indigenous people. The 50 per cent unemployment rates were tenfold then—if you can have 500 per cent unemployment. I am talking about the period when Indigenous peoples were living in camps built around the central west. It seems that has absolutely no significance to the non-Indigenous peoples. It has huge significance to more recent families—to the mobs that have resettled and to other language groups that have moved into the more settled areas—and yet we have a total disregard.

At one site in recent days—wait for it—the gravelling of walkways through the former campsite was done with gravel extracted from a quarry that itself contained artefacts that were not recognised and not known about until they were discovered by the land council in the area. This is the sort of disregard, almost contempt by negligence, that I am talking about—probably not towards the sort of artefacts that we are talking about in this bill, but I am talking about a state of mind, an attitude, and that can be traced right through to the Burrup example. I doubt that this federal legislation, despite its claims that it will apply as a last resort, will afford any protection to those areas of Indigenous heritage regarded as less significant than development priorities in the more settled areas of southeast Australia.

I note the second reading amendment, and I particularly support paragraphs (4) and (5), which calls on the government to support the inclusion of a sunset exemption provision in this bill, because the bill as it stands is inadequate. It does not address those areas that were drawn to the attention of the government of the day in the 1996 Evatt inquiry.