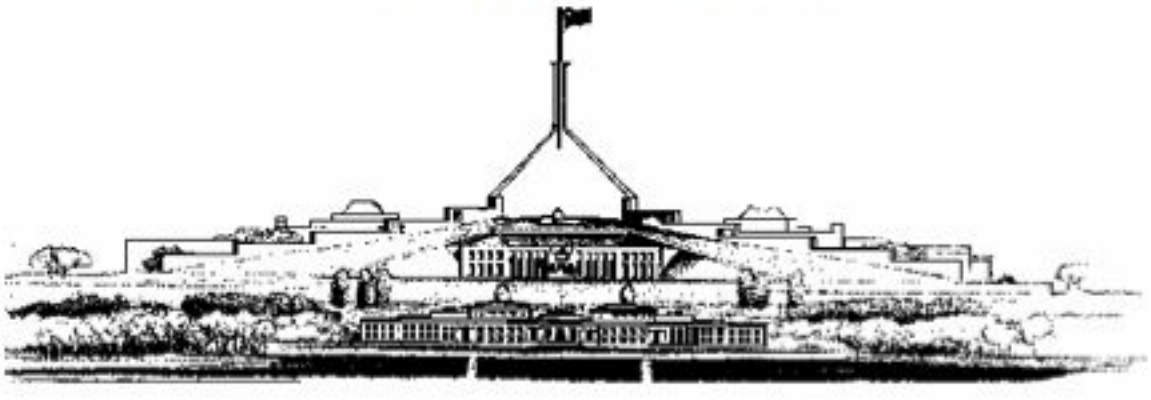
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

BILLS

Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014

SPEECH

Monday, 16 June 2014

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Monday, 16 June 2014	**Source**	House
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Questioner		**Responder**	
Speaker	Thomson, Kelvin, MP	**Question No.**	

Mr KELVIN THOMSON (Wills) (17:53): The Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 is the latest instalment in a series of breathtaking and relentless attacks on a whole range of attempts to protect Australia's beautiful, unique and fragile environments—a progress which was achieved with the blood, sweat and tears of many who love this land we call Australia. The rollcall of Commonwealth regression in environmental matters by this government is a long one. There is the proposed repeal of the carbon price legislation, and its proposed replacement by what is called a 'Direct Action Programme'. There was the designation on 26 March as repeal day for the purpose of repealing more than 1,000 'redundant' federal laws and some 9,500 regulations, including measures relating to the agricultural chemicals and veterinary medicines approval process, the regulation of ozone depleting substances and synthetic greenhouse gases, permit and levy processes for sea installations, repealing section 255A of the Water Act—which relates to the assessment of mining operations in the Murray Darling Basin—and then there is the review of the Renewable Energy Target and the proposed abolition of the Clean Energy Finance Corporation.

There is also the attempt to have 70,000 hectares of Tasmanian world heritage forest delisted by the World Heritage Committee. There is the refusal of the government to include climate change or the environment on the agenda for the G20 meeting in Brisbane, despite strong urgings from the USA and the EU. There was the recently announced review of the Howard government's Water Act in relation to the Murray Darling Basin, the approval of extensive dumping of sediments in the Great Barrier Reef in connection with a major expansion of port facilities at Abbot Point in Queensland to allow exploitation of the Galilee Basin coal deposits. There was the abandonment of the management plans for Commonwealth designated marine parks, thereby removing protections from fishing and sanctuary zones within these parks. There was the termination of the National Wildlife Corridors Plan, the termination of funding for the national system of the environmental defender's offices, which was established back in 1995. There was the termination of the grants funding scheme for environmental non-government organisations, which was established as far back as 1973, thereby threatening the continued existence of many small environmental organisations and a number of state conservation councils.

Further, there is the proposed extinguishment of a number of national bodies addressing environmental matters, including the Climate Commission, the National Water Commission and the Australian Renewable Energy Agency. There is the introduction of legislation to repeal the Energy Efficiency Opportunities Program. There is the reduction of funding for Landcare by $484 million, and there was the referral by the Attorney-General, Senator Brandis, to the Australian Law Reform Commission of a reference to inquire into the incursion into freedoms, for example property rights, by particular types of laws, including environmental laws.

This is the most sustained, concerted attack on the environment. But, in a field which is crowded with contenders, I think there is a case that this is the worst piece of environmental legislation that this government has introduced, because it turns back the clock on some 40 years of Commonwealth involvement in environmental protection. We should not mince words about this. Under the approach proposed by this bill, Fraser Island would have been mined; the Franklin River would have been dammed and the Daintree River would have been logged. We might have even seen the Great Barrier Reef explored for oil. In each case, state governments were prepared to see outstanding natural assets of national significance—arguably of global significance—trashed for economic advantage.

Rob Fowler, who is the adjunct professor at the law school at the University of South Australia, has set out something of the history of Commonwealth involvement in environmental matters, and he says:

Since the dawning of environmental awareness in early 1970's, the Commonwealth government has steadily increased its involvement in environmental matters, through legislation, policies and programmes that have largely been developed on a cooperative basis with the states and territories.

He goes on to say:

…the recently elected Commonwealth government appears to be intent on dismantling much of this Commonwealth fabric, masking its apparently ideological retreat from involvement in environmental protection behind an oft-repeated mantra of "red tape/ green tape reduction". The pinnacle of this assault is the government's "one stop shop" programme. I want to suggest to you that this seemingly technical exercise involving odd instruments called bilateral agreements, which might not be expected to attract the attention of the ordinary person in the street, is in fact a matter of the most profound importance and concern in terms of the future protection of the Australian environment.

I believe he is absolutely correct.

I point out that this is not some Rudd-Gillard government legacy which is being trampled over; this is a Howard government one. This is an act of 1999 which is being gutted by the most hostile national government to the environment in nearly 50 years of national government involvement in environmental questions.

I want to draw to the attention of the House the objects section of the Environment Protection and Biodiversity Conservation Act, section 3A. Subsections (c) and (d) refer to:

(c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making …

When we look at that background, we can see that the present legislation is of real concern. The Places You Love alliance has pointed out that this is not so much a one-stop-shop proposal as an eight-stop-shop proposal. It is an approach that will create uncertainty for business and undermine investor confidence. It will result in eight separate and different outcomes. There will be bilateral agreements between the federal government and each individual state and territory, relying on their inadequate and completely different legislative and regulatory regimes. The accreditation of state or territory laws that do not meet minimum requirements will put at risk matters of national environmental significance and may well breach our international obligations. While the stated intention of this policy is to reduce regulatory burden, the policy does the opposite, increasing regulatory obligations for business and increasing risk for all.

The alliance also make the point that state and territory governments frequently do not assess development proposals with the national interest in mind and that conflicts of interest occur because states are reliant on royalties and other income from large development projects and, in some cases, are the actual proponents of those projects. They further point out that the states do not have the capacity to adequately assess projects that relate to matters of national environmental significance. The eight-stop-shop model is neither efficient nor effective. It creates unreasonable risk for government, business and, most importantly, the environment and the community. When they have spoken with MPs around the parliament they have made the point that you can talk about red tape but you need to look at things like the health benefits of environmental legislation and regulation. For example, the United States Clean Air Act amendments resulted in benefits which exceeded the compliance costs by a factor of 30 to one and the European Union has calculated that the annual benefit to the European Union of environmental regulation is some 50 million euros per annum.

The Places You Love alliance, comprised of more than 35 environment groups, commissioned a report by the Australian Network of Environmental Defenders Offices. One of the things that report examined was the various state environmental legislation arrangements to look at and assess the adequacy of threatened species and planning laws in Australian jurisdictions. Their analysis found that no state or territory meets all the core requirements of best practice threatened species legislation, that while the laws in some jurisdictions look good on paper they are not effectively implemented, that there are a number of important legislative tools available for managing and protecting threatened species that are simply not used—for example, interim conservation orders and management plans are not utilised in Victoria, no critical habitats have been listed and no interim protection orders have been declared in Tasmania and no essential habitat declarations have been made in the Northern Territory—and that many of the provisions referred to are often discretionary. Critical tools such as recovery plans and threat abatement plans are not mandatory. Time frames for action and performance indicators are largely absent and effective implementation is also hampered by a lack of data and knowledge about the range and status of biodiversity across Australia. So their conclusion is that the state laws are simply not up to the task of protecting matters of national environmental significance.

They also make important points about the state of biodiversity in Australia—that, with almost 1,200 plant species and 343 species of animals considered endangered or vulnerable, the rate of species extinction

in Australia is amongst the worst on the planet and that the Commonwealth *State of the environment 2011* report showed that the highest numbers of threatened species occur in more densely populated areas, particularly the east coast and the south-west coast of Western Australia, and this significant rate of decline is particularly noticeable with mammals. Since European settlement, 18 species of endemic mammals have become extinct and about 100 species of vascular plants have become extinct as well. When we look at this situation overall we can see that it is a grim one, and we certainly do not want to see legislation which will make it worse, which is what this legislation will do.

I will return to some comments from Rob Fowler concerning the campaign against the Commonwealth's involvement in environmental approvals by the resources sector. He said:

There is nothing new in the current campaign … The mining industry railed against the application of the EPIP Act to its activities constantly from the time of its adoption in 1974, especially after the Fraser Government took the unexpected step of using the Act to prohibit the export of mineral sands extracted from Fraser Island. It was joined in this opposition for many years by the forestry industry, culminating in proposals in the early 1990's to introduce so-called "resource security" legislation.

He said:

The current 'green tape' propaganda is simply the latest stanza in an enduring campaign against Commonwealth involvement in environmental approvals by the resources sector … Underlying this campaign is a far larger issue with respect to the future of those involved in the fossil fuel industry in Australia. The coal oil and gas industries have a great deal at stake in the face of the growing pressure to shift Australia's energy generation from fossil fuels to renewables in response to the challenge of climate change. They have found a willing ear in the current coalition government, and it is impossible to avoid the conclusion that the question of what is an appropriate role for the Commonwealth in environmental approvals has been captured by a much larger contest involving the future choice between fossil fuels and renewable energy in Australia. In short, the coalition government has become the handmaiden of the fossil fuel industry and is vigorously promoting its cause.

I conclude with the words of Ross Garnaut, in his John Freebairn lecture delivered in Melbourne on 20 May:

Big business has never been so directly influential with government, and senses that it might be a winner which takes all on environmental matters.

I urge the House to reject this legislation.