



Speech by

GORDON NUTTALL

MEMBER FOR SANDGATE

Hansard 21 July 1999

AUSTRALIA ACTS (REQUEST) BILL

Mr NUTTALL (Sandgate—ALP) (3.39 p.m.): I rise to speak on the Australia Acts (Request) Bill. It is important that the honourable member for Warwick realises that the Government does not want to weaken the position of the State of Queensland. The honourable member said that he is an avid monarchist. May I say that I am an avid supporter of a republic because I believe it is time that this great nation headed in that direction. I suppose the strength of our democracy is the fact that we can have this debate in a civil manner. The citizens of this country have an opportunity to have a say in whether we will be a republic or not. This is all done in a peaceful way.

That is one of our nation's greatest strengths and it is something that has been overlooked during the course of this debate. Many countries of the Commonwealth are republics. Indeed they have their own national flag. I notice that the previous speaker referred to our flag. I do not think that that issue should cloud the issue of whether or not we should become a republic.

There are really two main arguments as to why the States should request an amendment to the Australia Acts under section 15(1). Firstly, section 7 of the Australia Acts deals with the relationship between Her Majesty and State Governors. It states that Her Majesty's representative in each State shall be the Governor. Accordingly, if Australia becomes a republic, section 7 of the Australia Acts needs to be amended to ensure that States will be able to sever their links with the Crown, should they choose to do so.

The future relationship between each State and the Crown is very much a State issue. This is why the States agreed unanimously that amendments to the Australia Acts occur via requests from all States, as set out in section 15(1) of the Australia Acts. That was touched on by the previous speaker.

The second reason that the State should be requesting the amendment is the legal certainty proposed by this course of action under section 15(1) of the Australia Acts. The current proposal by the Commonwealth Government of inserting in the Commonwealth referendum Bill a power for the Commonwealth Parliament to make such an amendment is indeed uncertain. Although this process is recognised by section 15(3) of the Australia Acts, no actual power is given in the Australia Acts to make an amendment in this way. Accordingly, there is legal doubt that the Commonwealth proposal would be effective. It then makes sense that the more legal, secure approach to the amendment be adopted.

If Queensland does not pass this Bill prior to the Commonwealth Parliament's August parliamentary sittings, the amendments to the Australia Acts will proceed in the Commonwealth referendum Bill. That would be far from a satisfactory outcome for a number of reasons. Firstly, by allowing the Commonwealth Government to legislate, Queensland could be accused of being the only State not to recognise the importance of State sovereignty on this issue. The only other State that remains to pass a request Bill, South Australia, is expected to do so in its next parliamentary sittings later on this month. There has been unanimous State support for the request Bill to be made under section 15(1), and I think that is an important point to make in this debate. In other jurisdictions, the request Bill has also received bipartisan support. In addition, the Prime Minister has indicated that, should the Commonwealth receive requests from all States under section 15(1), the Commonwealth's proposed amendments under section 15(3) will be removed from the Commonwealth referendum Bill. There is also legal doubt as to whether the current proposal, recognised under section 15(3) of the

Australia Acts, is effective in achieving the desired outcome. However, requests made under section 15(1) are beyond any legal doubt.

Can the request Bill wait until after the Commonwealth referendum? The simple answer to that is: no. If the States do not request amendments to the Australia Acts now, the Commonwealth will proceed with its proposal to amend the Australia Acts via the inclusion in the Commonwealth referendum Bill a power for the Commonwealth Parliament to make such an amendment. The Commonwealth's proposal will proceed in its referendum Bill prior to the November referendum. There are no options for the timing of the amendments. Action will commence one way or the other prior to the November referendum. Either the States sit back and let the Commonwealth legislate on a matter that is clearly a State issue, or the States exercise their legislative rights and make the request to the Commonwealth. Indeed, that is what we are proposing before the Parliament this afternoon.

Queensland and all the other States feel very strongly that a request under section 15(1) of the Australia Acts is the appropriate way to proceed. The legal certainty provided by section 15(1) is the other factor supporting a unanimous request from all the States. If the Commonwealth does not receive the request from all States prior to its August 1999 parliamentary sitting, it will proceed with amendments under the Commonwealth referendum Bill proposal. In the Premier's second-reading speech, he indicated that each State's Solicitor-General, parliamentary counsel and law officers have negotiated uniform request legislation, which each State is proposing to enact. So we are not out of kilter with the rest of the nation; we are simply going along an agreed course in relation to the forthcoming referendum to be put in November. The Bill that we are debating today has been passed already by the Victorian and New South Wales Parliaments and has been introduced in the Parliaments of three other States.

I am a strong supporter of a republic. I believe that the time has come for our nation to become a republic. The proposals that have been put forward are minimal changes. The people of this great country should not be frightened by them. It is indeed great that, as a nation, we are mature enough to have this debate in a peaceful and civilised manner. I commend the Bill to the House.
