



Speech by

Mr M. HORAN

MEMBER FOR TOOWOOMBA SOUTH

Hansard 21 July 1999

AUSTRALIA ACTS (REQUEST) BILL

Mr HORAN (Toowoomba South—NPA) (5.41 p.m.): At the outset, I want to say that this Bill is extremely technical. For many Opposition members, it delves fairly deeply into certain aspects of constitutional law, State law and States' rights. Most Opposition members are certainly approaching it from the point of view that, as a nation, we have all accepted that we are to have a referendum and, as a nation, we will accept the umpire's result at the end of that referendum. There are certain technical things that have to happen to enable that referendum to take place, regardless of what our feelings are on it and which way we are going to vote.

I want to make it very, very clear that I have looked at this particular Bill. Although I have some difficulty with it, I understand the technical matter of it. As a nation, if we are to proceed with the referendum, certain technical matters have to be undertaken. However, in this debate, we have to be very careful—and we have to get assurances from the Premier—about the extent to which we are going to be exposing States' rights if this Bill goes through. In brief, I believe that this is very much about preserving States' rights. But in that process, we are going to expose our flank to a reduction in States' rights.

I wish to comment on the rather passionate speech by the member for Ashgrove. I believe that he crystallised the issue. He feels very strongly about a number of issues, and many of us in this House respect the fact that he holds those strong views. And the very fact that he is able to express those views and castigate the people on the other side of the House is because of the freedoms of our country. It is really about the basis of our country, how this country was settled and how this country took into its arms so many people from so many different countries who were coming here obviously for a better life, a better way of life, a better political system—whether it was in the 1800s or the 1900s—for the security, the opportunity and the peace of this country.

I believe that all of us have accepted that we are to have a referendum. I have no doubt that the people of Australia will treat the referendum with great respect. The silent majority, who know in their minds and their hearts how good the present system is, and who know whether they want any adjustment to the system or whether they believe that we have the best system in the world, will be the people who will ultimately decide the referendum—not the politicians, not those of us who are speaking tonight, not the various constitutional conventions, and so forth. It will be the average person in the street who has a wife and kids, the older people, the younger people of our nation, and everybody else who thinks very deeply about this. Certainly, everyone who has spoken to this Bill has a point of view as to what side they are on.

I have no doubt that we have the best country in the world and that we have the best system possible. I have not travelled much. Some people in this House have travelled more than I have. But I have not found anywhere that I would rather live than in Australia. I ask members to consider the peaceful and efficient way in which we have been able to deal with issues—and difficult issues—in this country that not many other nations would ever be able to handle.

I remember being a young person with a family and not having any interest whatsoever in politics. I was trying to make a way of life as a dairy farmer with a wife and young kids. I remember the Whitlam issue. I look back now in the perspective of someone who was just trying to survive, make the farm payments, deal with the cattle slump and a whole lot of other issues. Prior to that, under the

Whitlam Government, we got hit by a bazooka with unbelievable increases in almost every part of that operation. As a young dairy farmer in Gympie, I was trying to survive, and I watched that national crisis on the TV screens—the denial of Supply and so forth. I felt very strongly when the decision of the dismissal was made. The people said, "We are going to decide. We are going to make up our minds. The Governor-General has given us the opportunity to decide. All the people across Australia will decide, and we will get the right result." After watching the TV screens at night and watching the outrage, the protest meetings, the big capital city rallies and so forth, I thought, "Whitlam is going to romp it in", but it went the other way. That was what people felt in their hearts and minds; they were not saying it, but it was there. I believe that was a great example of what can happen, and many people felt very passionate about that. I believe that the real issue was that we had a system that gave us a clean, clear-cut, peaceful way in which the whole 15 million or 16 million people in Australia at that time were able to make the decision, and we got on with our lives.

I ask members to consider Queensland politics in more recent times, the closeness of the past couple of Governments following the Mundingburra by-election, the change when the coalition Government came to power and the change when the Labor Government came to power. Everyone has had confidence in the Governor of this State—not just the person, but the position. The tradition and the responsibility that goes with that tradition have made that position in Queensland one of ultimate respect. I have no doubt that, had there been any difficulties during any of those times, the people of Queensland would have had the utmost respect in the judgment of the Governor of this State. So it is that, in Australia, we have a system whereby we do respect that position. We have a system of government whereby we have robust and rough-and-tumble Governments in the Parliaments of Australia and in the Federal Parliament. Ultimately, the system is clear cut, and the people have confidence in this particular safety net.

A previous speaker mentioned the matter of money. That has been dismissed by some Opposition speakers. I was not going to mention this matter, but people do make a judgment on these things. I have no doubt that, in looking at the referendum, people will be considering how they want the country run. They will be looking at governance and the safety net. They will wonder whether any alternative would be better. They will wonder whether our system is the best in the world and, if so, why we would tinker with it. People are quite pragmatic. They will say, "We need the money spent on things of substance rather than on the costs of change."

As members of Parliament, we go home to our electorates and we deal with fairly domestic issues such as branches over the fence and dogs barking, services provided in our hospitals, and law and order. However, we also have to grapple with some very deep legal and constitutional matters. One needs to be a fairly learned constitutional lawyer to delve into some of these issues.

There are two possible outcomes of the referendum. One is that the nation decides that it wants to move towards the republican model. The mechanics of putting that decision into place require that there be a change to section 7 so that the States can implement the referendum decision. We then come to sections 15(1) and 15(3) of the Australia Acts. These sections provide the mechanics by which section 7 can be changed and adjusted. That seems to be the nub of this whole Bill. Section 15(1) allows the States to act upon the unanimous request of the States to have the adjustment made. That is the protection that is afforded to the States. However, it is also possible for the Commonwealth to insert in its referendum Bill a power whereby the Commonwealth Parliament can make such an amendment. There is some doubt as to whether, legally, the power for the Commonwealth to do that is conferred by section 15(3).

As I understand it, the various State Attorneys-General have some real concerns, regardless of whether section 15(3) allows the Commonwealth to amend the referendum Bill. If the States were not unanimous in having the Bills enacted through the State Parliaments and the Commonwealth was able to act under section 15(3), a precedent would be set whereby—

Mr Lucas interjected.

Mr HORAN: We have a smart Alec suburban lawyer up in the backblocks who likes to throw in his comments all the while. It is a pity he could not put a bit of substance into the debate.

As I said at the outset, the States can enact this legislation in each State and ask for the ability to make the adjustment. This would preclude the Commonwealth forcing it through by way of amendment. The advice we have received from some quarters is that, if the States act, they can protect State rights. However, are we exposing our flank and taking away something that was put into the Australia Acts to preserve State rights? It was put into the Act so that these changes and adjustments could not be made unless there was an actual request by all six States.

I understand that the Premier has given an undertaking that during his summing up to the House he will give us the benefit of some legal advice he has received on this aspect. Members on this side of the House want to know whether we are exposing our flank to a reduction in State rights. We

recognise that it has to be part of the process and it would seem that it has to be done to preserve the States from future challenge if the Federal Government set a precedent by doing it in another way.

There is another aspect that concerns the coalition. If this Bill is passed by this House, it will be available in case it is needed if the nation votes in favour of a republic. If this Bill is passed by this Parliament, we will have a Bill that has the potential to reduce the defensive mechanisms of the State of Queensland. I ask the Premier to tell this House what will happen to this Bill in the event that the decision at the referendum is to continue with a constitutional monarchy. We need to be assured in black and white that this Bill will be—to use a popular term—destroyed, stopped, finished and of no consequence.

Some Bills lie around for a long time before they are assented to. I understand that it is said that this Bill will not be enacted unless the nation votes in favour of a republic. I believe it is absolutely crucial that we receive an answer to this question, because we could be exposed to a diminution of State rights. We will have a Bill that causes real complications and has the potential to reduce State rights.

I want to refer to section 53 of the Queensland Constitution. If the referendum result is in favour of a republic, my understanding is that not only would this Bill have to be implemented but another Bill would have to be passed to enable a referendum to take place in Queensland. I ask the Premier to explain that point as well. What we are debating tonight is extremely complicated. Those of us in this House who are not lawyers and the average person in Queensland will have some difficulty with this Bill. We feel less than confident about some of these issues because so many things are contingent upon other things happening. It is important to note that section 53 of the Queensland Constitution reads—

"A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act...shall not be presented for assent or in the name of The Queen unless it has first been approved by the electors."

It is quite clear that this Bill cannot be assented to unless there is a referendum in Queensland.

That brings me back to the point that we are passing a "maybe" Bill—a Bill that may be used—that we are led to believe will endeavour to strengthen a State's right in seeing that change proceeds. However, at the same time it takes away the mechanism in the Australia Acts that protected the States. The flow-on effects that that will have in terms of introducing legislation that will make changes to the Queensland Constitution so that there can be a referendum on the Constitution in Queensland are quite difficult. I sincerely ask that the Premier address each of those items because we are extremely concerned about the safeguards to our State.
