



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard 10 November 1999

CONSTITUTION AMENDMENT BILL

Hon. P. D. BEATTIE (Brisbane Central— ALP) (Premier) (11.39 a.m.): I move—

"That the Bill be now read a second time."

Today I introduce a Bill that directly impacts on all members of the Legislative Assembly. The Constitution Amendment Bill 1999 represents the Government's response to the Members' Ethics and Parliamentary Privileges Committee Report No. 34, titled Report on relevance of House of Lords/House of Commons Joint Committee's Report on Parliamentary Privilege. The committee's report was tabled on 2 September 1999 and recommended that amendment to section 40A of the Constitution Act 1867, which relates to the powers, privileges and immunities of the Legislative Assembly, be made as a matter of urgency.

In its report No. 34, the committee advised that a House of Commons/House of Lords Joint Committee on Parliamentary Privilege has issued a report making 39 recommendations that will entail significant changes to parliamentary privilege in the House of Lords and House of Commons. Currently, section 40A of the Constitution Act 1867 links the powers, privileges and immunities of the Legislative Assembly to those of the House of Commons. If the United Kingdom Parliament adopts any of the 39 recommendations relating to the powers, rights and immunities of the Parliament, those changes may then apply in Queensland under the current section 40A of the Constitution Act 1867. The committee's report No. 34 brought to the attention of the Legislative Assembly the fact that the Queensland Parliament's powers, rights and immunities may be changed without the Legislative Assembly's detailed consideration. On this basis, the committee recommended expediting amendment to section 40A of the Constitution Act 1867.

In its report, the committee did not comment on the merits of the House of Commons/House of Lords Joint Committee report. The committee conceded that some of the joint committee report recommendations may have some merit, although it did note that some of the recommendations conflicted with some of its previous recommendations. The committee correctly contends, however, that the issue is about sovereignty as much as it is about parliamentary privilege. It has previously been recognised by the Queensland Legislative Assembly that problems may arise in defining with certainty the powers, rights and immunities applicable in Queensland should the House of Commons divest itself of any of its powers or modify them in any way.

The Electoral and Administrative Review Commission, in its report Review of Parliamentary Committees of October 1992, expressed concern at the wording of section 40A. EARC contended that any change in the powers, privileges or immunities of the United Kingdom House of Commons would automatically flow to the Queensland Legislative Assembly. This linkage was then examined in the Members' Ethics and Parliamentary Privileges Committee's Issues Paper No. 3 on Parliamentary Privilege in Queensland, released in July 1997. From this issues paper, on 8 January 1999 the committee tabled its Report No. 26, the First Report on the Powers, Rights and Immunities of the Legislative Assembly, its Committees and Members.

In the report, the committee indicated that problems may arise in defining with certainty the powers, rights and immunities applicable in Queensland should the House of Commons divest itself of any of its powers or modify them in any way. After considering various options, the committee

recommended that section 40A be amended to provide that the powers, rights and immunities of the Queensland Legislative Assembly, its members and committees be those which applied to the House of Commons at the date of Federation, 1 January 1901.

I would like to emphasise at this point that the proposal to link the powers, rights and immunities of the Queensland Legislative Assembly, its members and committees to those which applied to the House of Commons at the date of Federation is similar to that which exists for the Commonwealth Parliament as provided for in the Commonwealth Constitution. It is not a controversial amendment. It wisely ties the powers, rights and immunities to a set period in time, meaning that they cannot be inadvertently amended by future changes in the United Kingdom Parliament.

In the Legal, Constitutional and Administrative Review Committee's final report, Consolidation of the Queensland Constitution, tabled on 28 April 1999, the committee endorsed the recommended amendment to section 40A and included the amendment in its draft Constitution of Queensland Bill. The Government accepted the recommendation of the Members' Ethics and Parliamentary Privileges Committee to amend section 40A in its response to the committee's Report No. 26. The new version of section 40A was included in the Government's discussion draft Constitution of Queensland Bill 1999 at clause 8, which was released for public consideration and comment on 20 July 1999. As members are aware, the adoption of a consolidated constitution has been deferred until late 2000 pending the inquiry into reform currently being undertaken by the Queensland Constitutional Review Commission.

While the Members' Ethics and Parliamentary Privileges Committee recognises that the Government's discussion draft Constitution of Queensland Bill 1999 includes its previous recommendation in relation to the powers, rights and immunities of the Parliament, the issue now is one of timing. This is important: the committee contends that the amendment to section 40A should be expedited separate to wider constitutional reform. The Government considers that there is merit in accepting the committee's recommendation to amend section 40A expeditiously. The potential for the Queensland Parliament's powers, rights and immunities to be changed by the United Kingdom Parliament without any consideration by the Legislative Assembly of Queensland is inappropriate and a dated notion for the independence and maturity of Queensland's Parliament.

The Government concurs with the committee that it is imperative that section 40A be amended now and not wait until the full consolidation and reform process in late 2000, given that the powers, rights and immunities of the United Kingdom Parliament may change in the intervening period. That is the timing issue. On this point, I understand that the House of Commons has recently considered and debated the House of Lords/House of Commons Joint Committee's report. Therefore, the need for this House to act quickly cannot be emphasised strongly enough.

This Bill is about protecting the powers, rights and immunities of the Queensland Legislative Assembly and will ensure that any changes to those powers will be made by this House and not the United Kingdom Parliament. As I have said, the proposal to link the powers, rights and immunities to those that applied in the House of Commons as at the date of Federation is similar to that which exists in the Commonwealth Constitution.

The amendment is not controversial and implements changes recommended by two parliamentary committees of this House. On this basis, I encourage all members to support the passage of this legislation. I commend the Bill to the House.
