Speech By

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

SUCCESSION TO THE CROWN BILL

Second Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (11.17 am): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Community Safety Committee for its consideration of the Succession to the Crown Bill 2013. As the Queen of Queensland dispute of the mid-1970s shows, the Queensland government takes very seriously both the state of Queensland's and the executive government of Queensland's ability to maintain its direct connection with the sovereign. As section 7 of the Australia Act 1986 makes clear, the exercise of the powers and functions of Her Majesty in respect of a state shall be performed on advice tendered by the Premier. The relationship between Her Majesty Queen Elizabeth II and her dominions is a direct and enduring one. We would expect nothing less for a self-governing peoples.

It is against this backdrop that the Newman government has rejected the Commonwealth's desire to subordinate the state's direct and enduring relationship with Her Majesty and her successors. Just as the Queensland government and others opposed the Whitlam government's attempts to have all communication to the sovereign go through the Governor-General—the so called Yarralumla postbox—we also oppose the idea of referring a basal element of our state's constitutional structure to the Commonwealth parliament. To do so would run counter to anything that was achieved by the long and difficult negotiations for the enactment of the Australia Act in 1986.

It is because of the Australia Acts that Queensland has a direct constitutional relationship with the sovereign. We did not go through the process of establishing that direct relationship only to replace the British Secretary of State for Foreign and Commonwealth Affairs with the Commonwealth Attorney-General. We did not replace the foreign office in Whitehall with the Attorney-General's department in Canberra. Nor do we wish to refer powers to Canberra just for the sake of it. As a general principle, the Newman government believes that there must be an overriding and clear case why the state should refer its constitutional powers to the Commonwealth parliament before a reference is made. Where there is a case for consistent legislative purposes amongst the states, if those purposes can be effected by Queensland legislation that remains entirely within the province of the Queensland legislature to amend or repeal, then that is the preferred approach. This bill marks a further step in redefining the relationship between the federal and state governments.

I now turn to the nature of the bill before the Legislative Assembly. The bill implements in Queensland important reforms to the rules relating to the succession to the Crown, namely to allow for succession regardless of gender, to remove the bar on succession for an heir and successor of the sovereign who marries a Roman Catholic and to limit the requirement for the sovereign's consent to marriage. Turning to the committee's report on the bill, I acknowledge at the outset that the

committee did have concerns about the urgency for the bill's introduction. The central policy objectives relating to these reforms have been agreed to by the Council of Australian Governments. The Queensland government was of the view that it is important to provide certainty as to Queensland's position on the reforms and for the Commonwealth and remaining states to be aware of the process Queensland intended to follow so they can determine their own respective courses of action. The introduction of the bill allowed this to happen. I note that the committee tabled its report on the bill on 27 February 2013. The committee made five recommendations in its report. I now table a copy of the government's response to the report.

Tabled paper: Legal Affairs and Community Safety Committee, Report No. 22—Succession to the Crown Bill 2013, government response [2558].

The committee's first recommendation, that the Succession to the Crown Bill 2013 be passed, is welcomed. Recommendation 2 is that the Attorney-General and Minister for Justice explain to the House the justification for including section 13 in the bill and how the Union with Ireland Act 1800 of Great Britain and the Act of Union (Ireland) 1800 of Ireland apply as part of the laws of Queensland. As noted in the government response, while the Union with Ireland Acts were not expressly preserved by the Imperial Acts Application Act 1984, section 5 and schedule 1, it is possible that they were saved by section 6 from the general termination of the application of imperial laws under section 7. Section 6 preserves any imperial act which independently of the provisions of the Imperial Act 9 George IV Chapter 83 (The Australian Courts Act 1828) is made applicable to Queensland by express words or necessary intendment. The Union with Ireland Acts contain no express words of extension to New South Wales, which then included what later became Queensland. But interpreted in light of the understanding of the nature of the Crown in 1800, the Union with Ireland Acts may, by necessary intendment, have been applicable to the colonies independently of the Australian Courts Act, section 24. In that case they may be part of Queensland law. Even if they are no longer part of Queensland law, however, they would have been prior to the commencement of the Imperial Acts Application Act 1984 on 12 October 1984. In that case the possibility that the operation of the Union with Ireland Acts before that date may have a bearing on the future succession to the Crown cannot be excluded. Accordingly, the provisions have been included out of an abundance of caution. At worst, if the Union with Ireland Acts are not part of the law of the state, the provisions will simply have no effect.

Recommendation 3 is to the effect that I explain to the House the justification for including sections 21 to 24 in the bill and how the Union with England Act 1707 of Scotland and the Union with Scotland Act 1706 of England apply as part of the laws of Queensland. Similar considerations apply to the Union with Scotland Acts as I have outlined apply to the Union with Ireland Acts—that is, while the Union with Scotland Acts were not expressly preserved by the Imperial Acts Application Act 1984, they may, by necessary intendment, have been applicable to the colonies independently of the Australian Courts Act, section 24. Again, in that case they may be part of Queensland law. Even if they are no longer part of Queensland law, they would have been prior to the commencement of the Imperial Acts Application Act 1984 on 12 October 1984. In that case the possibility that the operation of the Union with Scotland Acts before that date may have a bearing on the future succession to the Crown cannot be excluded. Accordingly, the provisions have been included out of an abundance of caution. Again, at worst, if the Union with Scotland Acts are not part of the law of the state the provisions will simply have no effect.

At this juncture I would like to indicate that I intend to move an amendment to clause 13 of the bill to include the Union with England Act 1707 of Scotland and the Union with Scotland Act 1706 of England. I will elaborate on this amendment later in this speech. Recommendation 4 asks me to confirm to the House that the approach taken by Queensland will not impact on the ability for all the Commonwealth realms to maintain the same monarch at all times and that it is consistent with the agreement reached at the 2011 Commonwealth Heads of Government Meeting. Queensland has participated in the COAG process to work towards a position where all realms maintain the same monarch at all times. My understanding is that the reforms in the bill are consistent with those agreed to by all the realms.

The committee's final recommendation asks me to provide further detail to the House on the steps taken by the government to develop the bill and advise the House whether I am confident that the bill is constitutionally valid. In order to progress the royal succession reforms the Council of Australian Governments established a COAG working group on royal succession. The COAG working group developed a working draft model state complementary bill as an option to progress royal succession reforms. The Queensland bill is based on the working draft model state complementary bill. This government is confident the Queensland bill as introduced and when enacted would be a

valid act to give formal recognition within Queensland to the proposed changes to the succession to the Crown. Notwithstanding this, and in a spirit of compromise, following further discussions with the Commonwealth and the states at the recent April 2013 COAG meeting, the government has agreed to amend the bill before the parliament to also include a request under section 51(xxxviii) of the Commonwealth Constitution for the Commonwealth parliament to enact a law to change the rules of royal succession. The specific changes dealt with by the request are, as provided for in the existing provisions of the bill, to allow for succession regardless of gender, to remove the bar on succession for an heir and successor of the sovereign who marries a Roman Catholic and to limit the requirement for the sovereign's consent to marriage. I will be moving amendments to give effect to this during this House's consideration in detail of the bill. However, I make the point that nothing in this amendment is to be taken to limit Queensland's direct relationship with the monarch. I will also be moving other amendments to the bill during the consideration in detail of the bill.

As adverted to earlier, I will be making an amendment to clause 13 of the bill to include a reference to Article II of the Union with Scotland Act 1706 of England and Article II of the Union with England Act 1707 of Scotland. This will ensure the bill's treatment of these acts is consistent with the way the Succession to the Crown Act 2013 recently enacted by the United Kingdom parliament treats these acts. Other amendments that I will be proposing resolve an ambiguity in clause 10(1)(d) of the bill and align the retrospectivity in the succession to the Crown not dependent on gender amendments provided for in clause 6 of the bill to United Kingdom time. This bill implements important reforms to the succession to the Crown while also ensuring Queensland's longstanding ties and direct relationship with the Crown are preserved.

It is most appropriate that this bill is being introduced 60 years after the coronation of Her Majesty Queen Elizabeth II. Again I extend the congratulations of this parliament to Her Majesty. The bill does not interfere with the constitutional principle that the sovereign is to be a descendant of Sophia, Electress and Duchess Dowager of Hanover. The people of Queensland—indeed, the people of all of Her Majesty's dominions—eagerly await the arrival of the Duke and Duchess of Cambridge's first child, a child who will eventually take its place in the history of the English-speaking peoples.

Honourable members interjected.

Mr BLEIJIE: Some members were not listening so I will repeat myself: the people of Queensland—indeed, the people of all of Her Majesty's dominions—eagerly await the arrival of the Duke and Duchess of Cambridge's first child, a child who will eventually take its place in the history of the English-speaking peoples. We are delighted that, no matter whether this child is a boy or girl, the child will be our future sovereign. The days of male primogeniture are over. I commend the bill to the House.