SUCCESSION TO THE CROWN BILL 2014

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Peter Collier (Leader of the House)**, read a first time.

Second Reading

HON PETER COLLIER (North Metropolitan — Leader of the House) [3.23 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Succession to the Crown Bill 2014, which facilitates Australia's national response to the United Kingdom's changes to the rules of royal succession. Two of the changes were initially discussed by leaders of the 16 commonwealth realms, where the Queen is the head of state, at the Commonwealth Heads of Government Meeting held in Perth on 28 October 2011. The UK government proposed a further change that was also agreed. The UK Parliament passed the Succession to the Crown Act 2013—the UK act—on 25 April 2013 to make the agreed changes. Australia needs to take legislative action to ensure that the sovereign of the UK is the same person as the sovereign of Australia as, under the Australia Acts 1986—commonwealth and UK—no act passed by the UK Parliament extends automatically to the commonwealth or to a state or territory.

The UK act makes three key changes to modernise those rules of royal succession, which are discriminatory and out of date in the context of today's society. Firstly, it removes the rule of male preference over females in the line of succession. This change will have retrospective effect back to the date of CHOGM. If the Duke and Duchess of Cambridge's first child had been a daughter, she would have preceded a future younger brother in line of succession and would have remained third in line to the throne. Secondly, it removes the rule disqualifying a person from succeeding to the Crown or from being the monarch due to their marriage to a Roman Catholic. The provision will also apply to marriages made before the commencement of the provision, which means that persons who had lost their place in the line of succession will regain it. Thirdly, the UK act repeals the UK Royal Marriages Act 1772, which voids the marriage of any descendant of King George II who fails to obtain the consent of the monarch to the marriage before the marriage. The UK Royal Marriages Act 1772 is being replaced with a requirement that only the first six persons in the line of succession must obtain the consent of the monarch before marrying. The failure to obtain this consent means that those persons and the descendants from that marriage will lose their place in the line of succession, but the marriage will no longer be void. The UK act also validates marriages that were made void under the UK Royal Marriages Act 1772 if certain conditions apply. However, these changes will not commence in the United Kingdom until the remaining fifteen realms have implemented the changes domestically.

At the 19 April 2013 Council of Australian Governments meeting, the states agreed to request the commonwealth under section 51(xxxviii) of the commonwealth Constitution to make the changes. Section 51(xxxviii) allows the commonwealth Parliament to make laws at the request of or with the concurrence of all the state Parliaments directly concerned. Clause 6 of the bill makes this request by asking the commonwealth Parliament to enact legislation in the terms, or substantially in the terms, set out in schedule 1 of the bill. The commonwealth legislation being requested expressly acknowledges in clause 4 that it is not intended to affect the relationship between the sovereign and the commonwealth, the states and the territories as existing before its enactment. This is an important safeguard to ensure that the status quo, preserved by section 7(5) of the commonwealth and United Kingdom Australia Acts 1986, remains. Another important safeguard is in clause 12 of schedule 1, which provides that the commonwealth Parliament can repeal or amend its legislation only at the request of or with the concurrence of all state Parliaments. This means that the commonwealth Parliament cannot take unilateral legislative action to alter the state's request.

COAG also agreed that state Parliaments could choose to enact their own complementary legislation dealing with the changes. The bill provides for this hybrid model in part 3, and is substantially in the same terms as the commonwealth legislation being requested but, importantly, also deals with the rules of succession as an exercise of state legislative power. The Crown plays a key role in the constitutional framework of this state, and part 3 of the bill reinforces this state's direct relationship with the Crown. Queensland has implemented the hybrid model. New South Wales, Victoria, Tasmania and South Australia have implemented the pure request model.

The relationship between the commonwealth legislation and that aspect of the bill dealing with these succession rules as a matter of state law is expressly recognised. The bill includes a provision in clause 6(2) that the state's request made under section 51(xxxviii) of the commonwealth Constitution is not contradicted or qualified in any way by any other provision in the bill.

Consistent with the UK legislation, the bill and the proposed commonwealth bill in schedule 1 will be retrospective as the change to the gender rule will operate from 28 October 2011, and the removal of the disqualification arising from marriage to a Roman Catholic will apply to marriages that occurred before the

relevant UK provision commences. The changes to the rules of royal succession remove gender and religious discrimination and are appropriate in the context of our modern and contemporary society.

Pursuant to standing order 126(1), I advise that the bill is a uniform legislation bill. It is a bill that ratifies or gives effect to an intergovernmental or multilateral agreement to which the government of the state is the party. The bill is a request by this state Parliament for the commonwealth government to legislate under section 51(xxxviii) of the commonwealth Constitution to ensure the United Kingdom's changes to the rules of royal succession become part of Australian law and to reflect those changes to the extent they are part of state law. The bill does not involve a transfer of power from the state to the commonwealth. I commend the bill to the house and table the explanatory memorandum.

[See paper 2253.]

Debate adjourned and the bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.

Referral to Standing Committee on Uniform Legislation and Statutes Review — Motion

On motion without notice by **Hon Peter Collier (Leader of the House)**, resolved —

> That the Standing Committee on Uniform Legislation and Statutes Review report to the house on the Succession to the Crown Bill 2014 by no later than Tuesday, 17 February 2015.

The PRESIDENT: In case members were wondering what was going on there, if we had stuck with the standing orders that require the Standing Committee on Uniform Legislation and Statutes Review to report within 45 days, the committee would have had to report by 3 January, 2015, and we would have had to come back to Parliament to receive the report.