

SECOND READING SPEECH

SUCCESSION TO THE CROWN (REQUEST) BILL 2013

Lara Giddings MP
Premier

I move – That the Bill now be read for the second time.

The Succession to the Crown (Request) Bill is an important step towards reforming the rules of succession for Australia's Head of State. The changes will bring the laws regarding royal succession more in line with the accepted norms of a modern and progressive society.

Mr Speaker, members will be aware that Her Majesty the Queen is not only Queen of Australia; she is also the sovereign of 15 other Commonwealth realms.

On 28 October 2011, representatives of those nations agreed that the rules about the succession of the Crown should be

changed to make succession not dependent on gender and to end the disqualification to succession or being the Monarch that currently arises from marrying a Roman Catholic.

Before committing Australia to these changes, the Prime Minister consulted Premiers and Chief Ministers. At that time, I signalled in-principle support on behalf of the Government of Tasmania, as did the other Premiers and Chief Ministers.

The United Kingdom Government has introduced a Bill into its Parliament to make changes to the rules relating to the effect of gender and marriage on royal succession. The United Kingdom has further proposed to disqualify certain persons from succeeding to the Crown as a result of marriage, to repeal the *Royal Marriages Act 1772* and to validate certain marriages made void by that Act.

Australia needs to change its law to align the rules of succession with the changes to be made to the law of the United Kingdom, so that the Sovereign of Australia is the same person as the Sovereign of the United Kingdom.

Mr Speaker, informed by advice of the Solicitors-General, the Council of Australian Governments agreed to implement the reforms by a cooperative request and consent scheme relying on section 51 (38) of the Australian Constitution. Under this scheme each State Parliament is to pass request legislation for the Commonwealth Parliament to enact legislation on the matter.

All States have agreed to make such a request to the Commonwealth Parliament.

A request and consent Bill such as the Bill before the House does not give the Commonwealth power to further change the rules of succession for Australia's sovereign in the future without agreement of the States.

The Bill is a “text-based referral” of power, that is the precise text of the Bill which the Commonwealth Parliament is being requested to enact is appended (as Schedule 1) to the Bill before the House. The Commonwealth is only being

authorised to enact the Succession to the Crown Bill that the State Parliaments including the Tasmanian Parliament agree to. This is the same process that was used successfully in 1986 to enact the Australia Acts.

Mr Speaker, the Succession to the Crown (Request) Bill provides for the Tasmanian Parliament to request and consent to the Commonwealth Parliament's enactment of legislation to change the law relating to the effect of gender and marriage on royal succession throughout Australia.

When the Commonwealth Bill is enacted these reforms will end the bias of males over females in the line of succession. A girl born into the line of succession to the throne will no longer be overtaken in the line by a younger brother.

As well, the reforms will remove the barrier to the Monarch, or people in the line of succession, from being married to a Roman Catholic.

Finally, it will repeal the Royal Marriages Act 1772. That Act currently provides that any marriage of a descendant of King George II that was not made with the Monarch's permission is void.

Mr Speaker, I would just like to point out the key provisions of the Bill.

The request to the Commonwealth Parliament by the Parliament of Tasmania is set out in clause 5 of the Succession to the Crown (Request) Bill. It refers to the proposed Commonwealth Act which is set out in Schedule 1.

Clause 4 of the proposed Commonwealth Act provides that it is not intended to affect the relationship between the Sovereign and the Commonwealth, the States and the Territories as existing immediately before its enactment.

This Clause ensures that the current relationship between Tasmania and the Monarch is not in any way disturbed by the reforms to be legislated by the Commonwealth.

Clause 6 of the proposed Commonwealth Act provides that the gender of a person born after midnight on the 28th October 2011 (UK time) will have no relevance when determining succession to the throne.

Mr Speaker, as we all know the Duke and Duchess of Cambridge had a baby boy in July and so the change doesn't affect that child. However if in the future the Duke and Duchess of Cambridge were to have a daughter in the future and then another son the older daughter would precede the younger son in the line of succession.

Clause 7 of the proposed Commonwealth Act provides that a person is not disqualified from succeeding to the Crown or from being Monarch due to his or her marriage to a Roman Catholic. The current prohibition dates from the *Bill of Rights* and the *Act of Settlement* at the end of the seventeenth and beginning of the eighteenth centuries.

The third reform provided for by the proposed Commonwealth Act, in clause 8, makes changes to requirements for certain people to obtain the consent of the sovereign concerning marriage. Any of the first six people in the line of succession to the Crown must obtain consent of the Queen before his or her marriage. Failure to obtain consent will remove a person, and their descendants, from the line of succession. Currently, under the Royal Marriages Act 1772, any descendant of King George II must obtain the Monarch's consent before marriage, otherwise the marriage is void. The Royal Marriages Act is repealed under the reforms in the proposed Commonwealth Act and Succession to the Crown (UK) Act.

Mr Speaker, there is one further amendment required to the law of Tasmania as a result of the proposed changes to the rules of succession to the Crown.

Currently the crime of 'Treason' provided for in section 56 of the Criminal Code is composed on the basis that the heir to the throne is a male. The amendment provided at clause 6 of the Bill is required to make the relevant provisions of section 56 of the Criminal Code also apply if the heir to the throne is a female.

The reforms outlined in this Bill, and the proposed Commonwealth Act it requests to be enacted, are consistent with the values of modern society. They will ensure that the Sovereign of Australia is the same person as the Sovereign of the United Kingdom.

The approach of enacting a request Bill is a constitutionally sound as well as efficient way to achieve these important reforms. I look forward to the Commonwealth enacting legislation in response to this request Bill, and the requests from other State parliaments.

Mr Speaker, I commend the bill.