



State Arms, Symbols and Emblems Bill.

Second Reading

The Hon. PETER BREEN [4.31 p.m.]: I move:

That this bill be now read a second time.

I thank honourable members for the opportunity to second read today the State Arms, Symbols and Emblems Bill. The major policy objective of the bill is to require that the State Arms of New South Wales are to be used to represent the authority of this State and not the Royal Arms of the United Kingdom, Great Britain and Northern Ireland. This includes the display of the State Arms in parliamentary buildings, courthouses, offices or official residences of the Governor and other government offices, as well as the use of the State Arms on seals and documents used by the State and its instrumentalities. The bill leaves unchanged the form of the current State Arms, symbols and emblems, allows them to be changed in the future and restricts the circumstances in which they may be used.

Before I discuss the content of the bill I think it is appropriate that I briefly outline its recent history and development. Honourable members may recall that last year, on 5 February 2002, the Attorney General, the Hon. Bob Debus, MP, requested that the Standing Committee on Law and Justice investigate my proposal to introduce a State Arms bill. The committee received 57 written submissions—a significant public contribution. On 5 December 2002 the Hon. Ron Dyer tabled the committee's report, following a comprehensive analysis of the issues relating to use of the State Arms and the Royal Arms of the United Kingdom in relation to the official purposes of the New South Wales Government. The committee concluded that the State Arms of New South Wales were the appropriate arms to represent the authority and sovereignty of this State and should be used consistently across all aspects of government.

Subsequent to the inquiry by the law and justice committee, of which I was a member, I consulted widely on the committee's report. This included meeting with those who had either made submissions or given evidence to the committee. I had the bill redrafted as the State Arms, Symbols and Emblems Bill to take into account the majority of the recommendations in the committee's report as well as the issues that arose during my consultations. I now turn to the substance of the bill. As I have already stated, the purpose of the bill is to require that the State Arms of New South Wales be used to represent the authority of the State rather than the arms of the United Kingdom, Great Britain and Northern Ireland, known as the Royal Arms. As honourable members may know, the Royal Arms of the United Kingdom incorporate emblems representing the various territories and kingdoms which comprise the United Kingdom, including the three lions of England, the lion of Scotland and the harp of Ireland.

The Royal Arms are readily distinguished by the lion of England and the unicorn of Scotland, which flank either side of the shield. These arms, which are used by the sovereign of the United Kingdom, represent the dominion and sovereignty of the United Kingdom of Great Britain and Northern Ireland. The distinguishing features of the State Arms of New South Wales on the other hand are, of course, the lion and the kangaroo. The State Arms also incorporate emblems such as golden fleece, sheaves of wheat and a rising sun, which were considered to be representative of the State in 1912. The bill proposes no present change but allows for change following public consultation through an expert advisory committee. I want to reassure all honourable members that there is no proposal in my mind or elsewhere to change the State Arms or the symbols or the emblems of the State.

While the Royal Arms of the United Kingdom were originally used in the colony, it is a fact that the State of New South Wales, which is a separate sovereign entity within the Commonwealth of Australia, has had its own coat of arms since 1906 when King Edward VII granted the arms by way of royal warrant for "the honour and distinction" of the State. Despite this, the State Arms are used quite erratically at present, with the Royal Arms used in many instances particularly by this Parliament and the courts. Honourable members may have noticed the use of the Royal Arms of the United Kingdom, in both Chambers of this Parliament located above the Speaker's and the President's chairs. The continued use of the Royal Arms of the United Kingdom contrasts with the situation at the Commonwealth level.

The Commonwealth Arms were granted by royal warrant in 1908 and amended in 1912 and are used consistently and without controversy by the Federal Government. This includes representations in the new Federal Parliament, the High Court, the Federal Courts and the Family Court. The reality is that there is no justification or logic for the various arms of Government and the State of New South Wales to continue to use the Royal Arms of the United Kingdom in any circumstance. As I have said, we have our own coat of arms that represent the sovereignty and dominion of the State of New South Wales. It is these arms, and not the Royal Arms of the United Kingdom, that

are the correct and proper arms to use and display in all aspects of government.

The passing of the Australia Act in 1986 put an end to any doubt as to which arms are the appropriate arms to use to represent the authority of the State of New South Wales. As honourable members will know, the effect of this Act was to sever the remaining legal ties between Australia and the United Kingdom. Having said that, I make the point that this bill is not motivated by any interest in republican activities, as has been suggested in other forums, most notably during the inquiry process. Rather, the bill merely seeks to require that the arms that most accurately reflect the sovereign State of New South Wales are used and displayed. Nor does the use of the State Arms rather than the Royal Arms of the United Kingdom mean that we are disrespecting our heritage and our historical connection to the United Kingdom. It simply means that we are using the correct coat of arms to identify the sovereignty and authority of the State of New South Wales, which is sovereign, separate and distinct from the sovereign of the United Kingdom and Northern Ireland.

While an inadequate measure of statutory protection is provided to the State Arms through the Unauthorised Documents Act 1922, there is currently no specific legislation governing the use of arms in New South Wales. The question for our purposes therefore becomes: Why do we need legislation to officially require the State Arms to be displayed instead of the Royal Arms of the United Kingdom? The fact is that government policy since 1995 has actually required the State Arms to be displayed in all new and renovated public buildings in New South Wales. Unfortunately, however, this policy does not appear to have been uniformly or consistently implemented. Consider the current refurbishment of the old Supreme Court buildings in King Street. The project is a credit to the Carr Government and respects the high heritage values of those buildings and their furnishings, including the many antique representations of the Royal Arms. Yet in the restoration process many entirely new representations of the Royal Arms of the United Kingdom have been introduced entirely contrary to government policy and despite public protest.

Honourable members will note that, under clause 61 of the bill, all depictions of the Royal Arms of the United Kingdom that purport to represent the authority of the State of New South Wales are to be replaced with the State Arms within three years of the commencement of the bill. For practical reasons, it is essential that the bill contain an appropriate time limit for implementing its objectives. As I have mentioned, it has actually been government policy since 1995, albeit inconsistently implemented, that the State Arms of New South Wales be used rather than the Royal Arms of the United Kingdom. Clause 6 (2) of the bill contains an exemption from the removal requirement in relation to the Royal Arms of the United Kingdom that form:

... an integral part of an item of the environmental heritage of the State.

The exemption is to be determined by the Premier in consultation with the Heritage Council and a State heraldry advisory committee. In other words, the bill recognises that there will be some cases when, on heritage grounds, it is appropriate to continue to display the Royal Arms of the United Kingdom. On those occasions the State Arms will be displayed in addition to the Royal Arms, which are retained for historic reasons. For example, it would seem appropriate to leave in place the existing Royal Arms of the United Kingdom that appear above the President's and the Speaker's chairs in this Parliament. However, a representation of the State Arms should also be displayed in a presiding position above the President's and the Speaker's chairs. It seems to me to be quite inappropriate for us to continue to make laws with respect to the government of New South Wales and for the people of New South Wales under the auspices of the Royal Arms. There is presently no representation of the State Arms, which embody the true sovereignty and authority of our lawmaking powers.

Clause 5 of the bill vests the power to change State Arms and to change and adopt the symbols and State emblems in the New South Wales Government. This power is to be exercised by the Governor on the recommendation of the Premier. I note that the Standing Committee on Law and Justice expressed concern about the intent of this clause, favouring instead the more traditional method of alteration. This method is of course to seek the grant of new arms by way of royal warrant, administered through the College of Arms of England in London. This is what occurred at the Commonwealth level in 1912 and in South Australia in 1984. The committee stated:

Intrinsic to the symbolic strength of the State Arms is that it has been validly conferred on the State of New South Wales by way of Royal Warrant in accordance with the laws of arms.

The constitutional and legal reality is that the traditional method contemplated by the committee would involve a continued role for the foreign College of Arms in London. To that end, clause 7 of the bill provides for the establishment of a State heraldry advisory committee. It is proposed that this committee will comprise eight members, the majority of whom are expert in heraldic theory, law and usage. The purpose of the committee will be to provide expert advice to the Government on changes to the existing State Arms, symbols and emblems, as well as on the addition of other State symbols and emblems. The committee will also advise the Government on the circumstances in which historic representations of the Royal Arms of the United Kingdom should continue to be displayed and on the appropriate housing and display of any representations of the Royal Arms that are removed from their current positions.

I am aware that the Heritage Council of New South Wales is currently the Government's principal expert adviser on heritage matters, and I agree completely with this arrangement. However, the Heritage Council has no expertise in relation to heraldic matters. I am of the opinion that the Government should make provision for obtaining the heraldic advice that is readily available to it. As the Law and Justice Committee noted in its report, a considerable wealth of knowledge of heraldry is available within New South Wales. The Heritage Council is clearly not, and would not pretend to be, the appropriate body to advise the Government about changes to the State Arms, symbols and emblems or about the adoption of further State symbols and emblems. I point out that the creation of a State heraldic committee would be necessary only in the absence of a heraldic authority with jurisdiction in New South Wales. While not directly concerned with the bill, the Law and Justice Committee's report recommended that the Premier favourably consider the establishment of a New South Wales heraldic authority to grant and register arms and to regulate heraldic usage in New South Wales until such time as a Commonwealth heraldic authority is established. The committee strongly supported the creation of a Commonwealth heraldic authority as the preferred outcome.

The creation of a heraldic authority is critical since it will mean that the people of this State do not have to seek grants of arms from heraldic authorities in other countries. Australians are presently in the unsatisfactory and anachronistic position of having recourse to the English, Scottish and Irish heraldic authorities, which are foreign to us. This fails to cater to the needs of citizens whose ethnic origins are not in England, Scotland and Ireland and who have brought their inherited coats of arms and heraldic traditions with them to this country. Their rights and interests are completely ignored at present. I suggest that the Canadian Heraldic Authority, which integrates the many influences of its multicultural and indigenous societies, is a model example in this respect. I hope that the Premier will give detailed consideration to this very important recommendation and to this bill, which implements the important public policy objectives of the Law and Justice Committee's report. I thank honourable members once again for this opportunity to give the bill a second reading today. I commend the bill to the House.

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