

WEDNESDAY, 17 NOVEMBER 2021


 The Legislative Assembly met at 9.30 am.

Mr Speaker (Hon. Curtis Pitt, Mulgrave) read prayers and took the chair.

Mr SPEAKER: Honourable members, I respectfully acknowledge that we are sitting today on the land of Aboriginal people and pay my respects to elders past and present. I thank them, as First Australians, for their careful custodianship of the land over countless generations. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all now share.

REPORT


Auditor-General

 **Mr SPEAKER:** I have to report that I received from the Auditor-General *Report 4: 2021-22—2021 status of Auditor-General's recommendations*. I table the report for the information of members.

Tabled paper: Auditor-General Report 4: 2021-22—2021 status of Auditor-General's recommendations.

SPEAKER'S RULING

Big Bank Levy (COVID-19 Health Response) Bill, Order Discharged

 **Mr SPEAKER:** On 28 October 2021 the member for South Brisbane introduced the Big Bank Levy (COVID-19 Health Response) Bill 2021. The bill seeks to enact a 0.05 per cent levy on the five biggest banks operating in Queensland. The bill is clearly a revenue bill. I rule that the bill is out of order and it is discharged from the committee and the *Notice Paper*. I seek leave to incorporate my full ruling circulated in my name. Is leave granted?

Leave granted.

SPEAKER'S RULING—BIG BANK LEVY (COVID-19 HEALTH RESPONSE) BILL 2021, CONTRAVENTION OF FINANCIAL CONVENTION

On 28 October 2021 the Member for South Brisbane introduced the Big Bank Levy (COVID-19 Health Response) Bill 2021. The Bill seeks to enact a 0.05% levy on the five biggest banks operating in Queensland.

The Bill is clearly a Revenue Bill.

The Explanatory Notes state:

'Until 16 June 2011, the Standing Orders of the Queensland Legislative Assembly stated that 'Only a Minister in accordance with a message from the Governor may introduce an Appropriation Bill or propose the imposition of a tax, rate, duty or impost or increase or alter the incidence of a charge.' (former SO 165(3)). However, as stated by the Clerk of the Parliament in correspondence dated 6 October 2021, under the current rules, 'neither statute or Standing Orders currently prevents a PMB (private member's bill) proposing revenue measures.'

The paragraph above understates the issue.

It is correct that neither statute nor current Standing Orders currently prevents a Private Members' Bill proposing revenue measures. However, our system of government is comprised of many fundamental conventions that are not expressed in statute or standing orders but must still be preserved.

Queensland's statute and standing orders

In Queensland, s.68 of the *Constitution of Queensland Act 2001* provides that the Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of (a) an amount from the consolidated fund; or (b) an amount required to be paid to the consolidated fund; that has not first been recommended by a message of the Governor. This provision replaced s.18 of the Constitution Act 1867 of the same effect.

From its commencement in 1860 all money bills for the Legislative Assembly (Appropriation and Revenue) needed to be introduced in and by leave of the Committee of Supply (ie Appropriation) or the Committee of Ways and Means (ie Revenue). From the 1990s these Committees ceased to operate as a result of the suspension of Standing Orders.

New Standing Orders passed in 2004 provided (SO 165) that only a Minister in accordance with a message from the Governor may introduce an Appropriation Bill or propose the imposition of a tax, rate, duty or impost or increase or alter the incidence of a charge.

The 2004 Standing Order was replaced on 16 June 2011 when the new committee system was introduced and the replacement Standing Order more closely mirrored the requirements of s.68 of the Constitution of Queensland Act 2001. That is, it required a message for an appropriation bill, not a revenue bill.

Well accepted constitutional convention

The system of government in Queensland and the Queensland Parliament is guided by a number of constitutional conventions. One such convention is the 'financial initiative of the Executive'. This embodies the principle that only the Government may initiate or move to increase appropriations or taxes.

Standing Order 2 provides:

2. *Standing Orders govern procedure*
 - (1) *These Standing Orders govern the conduct of business and proceedings in the House and are to be read in conjunction with any Sessional Orders and the practices of the House.*
 - (2) *Where statute, these Standing Orders, Sessional Orders or practice of the House do not provide for a matter, the Speaker in determining the correct procedure, may make reference to the rules, forms and practices of other Parliaments operating under the Westminster system.*

Erskine May provides:

"It was a central factor in the historical development of parliamentary influence and power that the Sovereign was obliged to obtain the consent of Parliament (and particularly of the House of Commons as representatives of the people) to the levying of taxes to meet the expenditure of the State. But the role of Parliament in respect of State expenditure and taxation has never been one of initiation: it was for the Sovereign to request money and for the Commons to respond to the request. The development of responsible government and the assumption by the Government of the day of the traditional role and powers of the Crown in relation to public finance have not altered this basic constitutional principle: the Crown requests money, the Commons grant it, and the Lords assent to the grant. In more modern terms, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of Ministers, first to authorise the relevant expenditure (or 'Supply') and, second, to provide through taxes and other sources of public revenue the 'Ways and Means' deemed necessary to meet the Supply so granted. The role of the House of Lords is confined to assenting to such financial provisions of the House of Commons as require statutory authorisation.

The financial control of the House of Commons is exercised at two different levels. So far as policy is concerned, it authorises the various objects of expenditure and the resources to be used and the sums to be spent on each; it also authorises the levying of taxes. On the level of administration, it satisfies itself that its expenditure decisions have been duly carried out—in other words, that the amounts it has authorised, and no more, have been used for the purposes for which they were granted, and for no other purposes. For both sets of functions the House of Commons has, partly through its own procedure and partly through legislation and administrative practice, devised appropriate machinery."

House of Representatives Practice also provides:

"Financial initiative of the Executive

What is called the 'financial initiative of the Executive'—that is, the constitutional and parliamentary principle that only the Government may initiate or move to increase appropriations or taxes—plays an important part in procedures for the initiation and processing of legislation.

The principle of the financial initiative may be paraphrased as follows:

- The Executive Government is charged with the management of revenue and with payments for the public service.
- It is a long established and strictly observed rule which expresses a principle of the highest constitutional importance that no public charge can be incurred except on the initiative of the Executive Government.
- The Executive Government requests money, the Parliament grants it, but the Parliament does not vote money unless required by the Government, and does not impose taxes unless needed for the public service as declared by Ministers.

The reference to 'public charge' in this context means a charge on public funds (an appropriation) or a charge on the people (a tax). The traditional position is expressed in May—"A charge of either kind cannot be taken into consideration unless it is sought by the Crown or recommended by the Crown".

...

The standing orders of the House in relation to financial legislation reflect the principle of the financial initiative. In some matters the House has imposed on itself restrictions that appear to go beyond the letter of the Constitution, but which are based on constitutional convention."

Conclusion


Allowing a Private Members' Bill which seeks to increase or impose revenue would breach a fundamental constitutional convention (the financial imperative of the Crown) and the absence of a specific Standing Order does not mean that the Speaker cannot and should not rule out of order a bill that breaches such a fundamental convention and principle.

Indeed, Standing Order 2(2) notes that where statute, Standing Orders, Sessional Orders or practice of the House do not provide for a matter, the Speaker in determining the correct procedure, may make reference to the rules, forms and practices of other Parliaments operating under the Westminster system.

I rule that the Big Bank Levy (COVID-19 Health Response) Bill 2021 seeks to impose revenue and breaches the fundamental constitutional convention of the financial imperative of the Crown. The Bill is, therefore, out of order and is discharged from the committee and the notice paper.

SPEAKER'S STATEMENT

School Group Tours

 **Mr SPEAKER:** Honourable members, I wish to advise that we will be visited this morning in the gallery by students and teachers from the Caningeraba State School in the electorate of Burleigh and the Tamrookum State School in the electorate of Scenic Rim.

PETITIONS

The Clerk presented the following paper petitions, lodged by the honourable members indicated—

Herberton State School, Years 11 and 12

Mr Knuth, from 465 petitioners, requesting the House to reinstate senior secondary years 11 and 12 at Herberton State School Secondary Campus.

Aged-Care Facilities, Care Providers

Mr Crandon, from 39 petitioners, requesting the House to allow a designated person attend to the additional care and needs of a resident in Aged Care, to maintain their mental health and general well-being, during times of aged care facility lockdowns.

The Clerk presented the following e-petitions, sponsored by the Clerk—

Electric Vehicles

704 petitioners, requesting the House to legislate to remove electric vehicles from Queensland roads until manufacturers can demonstrate resource neutral construction and disposal of the batteries.

Petitions received.

TABLED PAPER

TABLING OF DOCUMENTS (SO 32)

MINISTERIAL PAPER


The following ministerial paper was tabled by the Clerk—

Minister for Police and Minister for Corrective Services and Minister for Fire and Emergency Services (Hon. Ryan)—

Response from the Minister for Police and Minister for Corrective Services and Minister for Fire and Emergency Services (Hon. Ryan), to a paper petition (3625-21) presented by the member for Callide, Mr Boyce, and an ePetition (3587-21) sponsored by the member for Callide, Mr Boyce, from 468 and 772 petitioners respectively, requesting the House to retain and not move or demolish the historically listed Courthouse building on the main street of Gin Gin

MINISTERIAL STATEMENTS

Coronavirus, Update; Coronavirus, Vaccination

 **Hon. A PALASZCZUK** (Inala—ALP) (Premier and Minister for the Olympics) (9.33 am): In good news today I can report that we have zero community cases of COVID and one new case in hotel quarantine. Yesterday 10,871 tests were conducted—it is great that people are still going out and getting tested—and 14,432 vaccines were delivered by Queensland Health in the past 24 hours. I would like to do a special callout to the Townsville Community Vaccination Centre because they delivered 1,355 vaccines yesterday—more than anywhere else in the state. Go, Townsville!

Mr Healy: Get 'em up, Cairns. Come on!

Ms PALASZCZUK: Yes! Come on, Cairns!

Mr SPEAKER: Order, member for Cairns!

Ms PALASZCZUK: Mr Speaker, 82.75 per cent of Queenslanders have had their first dose and 71.07 per cent are now fully vaccinated. The COVID pandemic is the greatest peacetime challenge this country has ever faced. Just this past week New South Wales and Victoria recorded another 9,987 cases and, sadly, 67 deaths. The Northern Territory is also confronting a fresh outbreak, and we wish