



Speech by

Hon. D. HAMILL

MEMBER FOR IPSWICH

Hansard 25 May 1999

COMMONWEALTH PLACES (MIRROR TAXES ADMINISTRATION) BILL

Hon. D. J. HAMILL (Ipswich—ALP) (Treasurer) (12.38 p.m.): I move—

"That the Bill be now read a second time."

The Commonwealth Places (Mirror Taxes Administration) Bill 1999 implements essential elements of safety net arrangements agreed between Queensland and the Commonwealth to ensure the continuation of appropriate taxation arrangements for Commonwealth places in the State. The need for these arrangements arose from the High Court's decision in *Allders International Pty Ltd v Commissioner of State Revenue* where the court decided that a lease of a shop at Tullamarine Airport was not subject to stamp duty imposed under Victorian stamp duty legislation because of section 52(i) of the Commonwealth Constitution.

That section of the Constitution provides the Federal Parliament with exclusive powers to make laws for the peace, order and good government of the Commonwealth with respect to all places acquired by the Commonwealth for public purposes. The decision has important revenue implications for all States as, in addition to stamp duty on leases of the type considered by the High Court, it is possible that other State taxes may similarly be inapplicable to the extent that they have the necessary connection with a Commonwealth place.

To ensure that Commonwealth places did not become taxation havens and to preserve State revenues, the Federal Treasurer publicly announced the Commonwealth's intention to implement safety net arrangements on and from 6 October 1997. As a result, the Commonwealth enacted the Commonwealth Places (Mirror Taxes) Act 1998 which applies as Commonwealth law the States' stamp duty, payroll tax and financial taxes laws in relation to Commonwealth places in each State. The Commonwealth also announced that, should it be necessary, other State taxing laws may subsequently be applied with effect on and from 6 October 1997.

In Queensland's case, the safety net arrangements mean that there will be Commonwealth legislation which applies the Stamp Act 1894, Pay-roll Tax Act 1971 and Debits Tax Act 1990 for Commonwealth places in Queensland. These applied laws commence on the signing of an agreement by the Governor-General and each State Governor and then have retrospective effect to 6 October 1997. In addition to the mirror tax legislation, the Commonwealth also enacted windfall tax legislation to tax refunds of State taxes paid prior to 6 October 1997 where the refund is sought after that date on the basis of the constitutional invalidity of the State taxing law.

The Commonwealth Places (Mirror Taxes Administration) Bill 1999 will provide the necessary legislative framework to support the administration and operation of the applied laws in Queensland. This legislation has been prepared on a national basis by the Parliamentary Counsel Committee and has been, or will be, enacted in a substantially similar form by all States.

Amongst other things, the Commonwealth Places (Mirror Taxes Administration) Bill 1999 authorises the Governor to enter into the agreement with the Governor-General, which is necessary for the mirror tax legislation to have effect in Queensland. It also provides the authorisation for State authorities, which will be the Office of State Revenue in Queensland, to perform functions and powers on behalf of the Commonwealth in administering the applied laws, ensures the operation of State taxing laws where a place ceases to be a Commonwealth place, validates things purportedly done

under an applied law where they should have been done under a State taxing law and provides the framework to ensure the effective operation of the State taxing laws together with the applied laws. In this regard, these arrangements are intended to operate seamlessly for taxpayers and revenue authorities. That is, a person's total taxation liability is intended to remain the same under the safety net arrangements as it would have been had the relevant State taxing law continued to apply in relation to the person's Commonwealth place activities.

Administration of the legislation is also intended to remain unchanged so that there are no additional compliance or administration costs. This means, for instance, that taxpayers who have liabilities under the Commonwealth and State legislation will only be required to lodge one return with the Office of State Revenue and will not be required to separately identify and account for the Commonwealth and State liabilities. Similarly, the Office of State Revenue will not be required to separately identify whether liability has arisen under the State or Commonwealth legislation, including where action is being taken to assess or reassess liability, recover outstanding tax or prosecute a person for failure to satisfy taxation obligations.

To ensure that the Commonwealth applied laws and State taxing laws operate together as intended, amendments to the State taxing laws will be required with effect from the same date that the applied laws commence. The amendments required to the State taxing laws to ensure their effective operation in conjunction with the corresponding applied laws and to ensure that a person's taxation liability remains unchanged under these arrangements will be separately made. Any amendments made to the State taxing laws are automatically mirrored in the applied laws. There will also be some cases where the Commonwealth applied laws will require specific modification to ensure their seamless operation with State taxing laws. The Commonwealth's mirror tax legislation delegates to State Treasurers the power to amend the applied laws in specified circumstances by publication of a notice in the Commonwealth Gazette.

Under the safety net arrangements, revenues attributable to the Commonwealth applied laws are paid to the relevant State. As the seamless nature of these arrangements precludes the separate identification of these revenues, the Commonwealth and the States must agree a basis for determining the appropriate proportions of revenues collected by each State which relate to the Commonwealth applied laws. A bilateral agreement between each State Treasurer and the Commonwealth Treasurer will, amongst other things, specify the basis for this apportionment.

The unique issues raised by the Allders decision have necessitated the development of a unique and quite novel solution—a solution which balances the need to protect State revenues while minimising any impact on revenue authorities and the few affected taxpayers. The outcome we have before us today would not have been possible without a great deal of commitment and effort on the part of the Commonwealth and the States. I would therefore like to acknowledge the assistance of the Commonwealth in working cooperatively with the States to find a pragmatic solution to the issues raised by the Allders High Court decision. I would also like to acknowledge the efforts of all State revenue offices in working together to develop a functional and practical framework to facilitate the administration of these arrangements.

Finally, this Bill delivers on the Government's commitment to provide further land tax concessions. In the 1998-99 State Budget, I indicated that reductions in land tax would need to be put on hold until the implications of the Commonwealth's national tax reform proposals had been fully considered. The outcome of those proposals is still uncertain. Nevertheless, this Government will deliver on its commitment by increasing the general rebate from 5% to 15% in the 1999-2000 financial year, saving taxpayers approximately \$23m in that year. I commend the Bill to the House.
