



Speech by

Mr N. ROBERTS

MEMBER FOR NUDGE

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CONSUMER CREDIT [QUEENSLAND] AMENDMENT BILL

Mr NEIL ROBERTS (Nudgee—ALP) (11.50 a.m.): Firstly, I pass on my congratulations to both the current minister and the former minister for taking up this issue not just within Queensland but also on the national stage, because it is an issue that affects low-income earners in particular and those more susceptible to using these loans quite significantly.

Effectively, this issue is about regulating the practice referred to as payday lending, which has been defined quite extensively in the debate today and yesterday. In a sense, it is a problem similar to that which exists with the current growth in credit card debt, an issue in itself which I think at some stage the nation needs to deal with. Earlier today I was reading an article on that issue which highlighted that banks now make it a habit of marketing increases to credit card limits as a matter of course. In the early days there seemed to be quite a stringent process for securing a Bankcard or credit card. Today it seems that, as one article pointed out, increases to credit card limits are marketed just like any other product in a supermarket store. Along with the issue of payday lending there are a number of issues relating to credit finance which I believe legislators need to be having a look at.

Effectively, payday lending can be defined as short-term loans with high fees and charges. The terms of the loans basically extend anywhere from a few days to a few months. Over the past couple of years, in Australia the growth of this industry has been dramatic and it follows on the very strong trend of growth in the United States, where I understand this type of lending originated.

The bill and its provisions are necessary for a number of reasons, essentially because short-term loans—under 62 days—are currently not regulated by the Consumer Credit Code, which was passed by this parliament and other state parliaments some time ago. Additionally, a number of unscrupulous lenders have been taking advantage of unsuspecting consumers and, without putting too fine a point on it—a number of speakers have made this point—they have basically been ripping people off. And it is not just through the issue of non-disclosure; there are a number of other problems that I will deal with in a moment.

It appears that the target market for many payday lenders is those people who need a small amount of money to get them over a short-term financial hump. Usually the target market is people who do not have the ability to access more traditional forms of loan funds.

There are a number of problems with these payday loans. The principal concern which will be addressed by this bill is the lack of transparency of the fees and charges that the payday lenders are imposing upon borrowers. The other significant problem that has been identified is that a significant number of people who are accessing these loans are those in the community who are least able to afford the high repayments. There have been a number of problems and concerns raised by the Office of Fair Trading, and I might outline a few of those.

Payday lenders generally do not disclose annual percentage rates for their loans. This is an issue addressed by the bill. Most payday lenders do not provide a copy of the contracts to borrowers. Of course, that means that fees are often not disclosed. Most organise a direct debit from the customer's bank account, which in effect gives the lender the first priority on the customer's next pay. Some payday lenders require security in the form of a bill of sale over items such as motor vehicles. These latter two in particular are some of the more insidious aspects of these loans that have trapped many low-income earners. In effect, taking a bill of sale almost entirely removes the risk to the lender,

which counters the argument that this is a high-risk loan area. When there is no risk to the lender we would expect fees and charges to be a bit lower.

Additionally, other problems include the fact that some payday lenders have been lending money for any purpose. One of the most disturbing aspects that has been brought to light is that some have even been lending to gamblers to help them out of gambling problems.

Some sections of the industry have argued that this loan scheme can be likened to the taxi industry in the sense that we would not hire a taxi to travel to Melbourne. They argue also that the market for these types of loans generally is high risk and hence that justifies higher fees and charges. There is some validity to these arguments. I think there is a need for this type of loan. However, the major problem that has been trapping many unsuspecting people is the lack of transparency in relation to the enormous fees and charges. As has been pointed out numerous times in this debate, many unscrupulous lenders have been taking advantage of the lack of information that they are required to provide. This legislation is a significant step towards addressing that problem.

The bill achieves that by ensuring that the protections outlined in the Consumer Credit Code will apply to these loans unless three conditions are met, and they are that the loan is for less than a 62-day period, the fees and charges do not exceed five per cent of the total amount of the loan, and the interest rate for the loan does not exceed 24 per cent per annum.

Some of the protections I have referred to under the Consumer Credit Code are as follows: firstly, the loan contract must be in writing; the contract must provide certain specified information, including the annual percentage rate, before the contract is entered into and in the contract itself; and the borrower must be provided with a contract. Additionally, the Consumer Credit Code allows for any unjust transaction to be reopened and for unconscionable interest and other charges to be reviewed. So there are a number of protections within the Consumer Credit Code that will assist borrowers in at least getting the information they require to make a judgment on whether they will take out the loan. Also, after they have entered into the loan, if there are particular practices of concern there are some avenues for reviewing their involvement in it.

There are many circumstances which make people particularly vulnerable to payday lenders. All of us in our electorate offices from time to time come across distressing cases of families who are facing financial difficulty. I can relate to the House a couple of instances from earlier this year which I think strengthen the need for this type of legislation.

I was made aware of one family who, earlier in the year, spent all of its disposable income and cash on providing schoolbooks, uniforms and other provisions for their children to attend school. They saw that as a significant priority for their kids. But it removed their capacity to pay rent and indeed even to purchase enough food to survive for a period. Another family was from a culture which had a custom where the extended family members were required to contribute financially to a wedding. This family, by their custom, was required to contribute several hundred dollars in one week towards the wedding of an extended family member. That meant they were unable to maintain their rent payments. It was the second or third time they had faced this difficulty and they were facing potential eviction. However, it was most distressing to the family that at that time they did not have enough money to buy Christmas presents for their kids.

All members would have received numerous examples of cries for help in our offices such as from people unable to pay their electricity bill or the gas bill and have received threats of disconnection, et cetera. Gambling problems is another reason that crops up from time to time. People naturally become quite desperate in those types of situations and they become very vulnerable to the easy money that can be provided through payday lenders. For too long the unscrupulous providers in this industry have been taking advantage of people in those sorts of desperate situations.

This bill, of course, will not prevent people from continuing to take out loans that they cannot afford to pay but will provide them up front with the necessary information that they need to at least make the judgment as to whether they will take up the loan or not. To use the taxi analogy again, if people know that a taxi ride to Melbourne is going to cost \$1,000-odd, they are simply not going to take it. If people are aware that if they borrow \$100 or \$200 to get them over a financial hump and in a few weeks time it might cost them \$300 or \$400, they might seek some other assistance.

I have also taken the opportunity of speaking to some local community groups about the financial difficulties that constituents in my area are facing. All of the groups that I have spoken to say that requests for emergency financial relief are on the increase. In fact, one of the groups in my area says that they receive requests for financial assistance every single day that they are open. The group tries to assist by referring people to financial counselling services, and there are a couple of quite excellent groups available, including Lifeline and Financial Counselling Services in the Valley.

One of the most disturbing and increasing reasons, particularly over the past couple of years, for requesting assistance is gambling debt. Requests are also increasing in the area of emergency housing accommodation because people are finding it difficult to pay their rent. My advice to people is that they

should seek financial counselling whenever they find themselves in these desperate situations. Organisations such as Lifeline and Financial Counselling Services do provide a great service under very difficult circumstances.

I just want to make a very brief comment about one issue related not specifically to this legislation but to what is referred to as national template legislation. This bill is national template legislation which will be picked up by other states. I think it is fair to say that we do need to ensure that, in areas where legislation needs to be similar or identical across the states, that process balances the role of the executive government and the role of the parliament. I do not intend this to be any criticism at all of the current minister, the former minister or, indeed, any other minister who has brought national template legislation into a parliament, because this is a national issue. It is no criticism of this legislation.

The reality is that to some degree the parliamentary process is sidelined when we are dealing with national template legislation. Essentially the process is that ministers will agree on a national level to particular principles or sometimes to the actual wording of bills. The parliament in each state then takes the next step of passing without amendment those particular provisions. The theory is that this parliament or, indeed, any parliament could by a vote amend legislation, but the practice with national template legislation is that it never occurs.

In relation to this particular bill I note that there is a requirement that there be two-thirds agreement between the ministers before the Consumer Credit Code can be amended, and that is good. Some states will automatically adopt whatever is passed in the Queensland parliament without any debate in their own parliaments. That may be fine, but the issue here is that the national template legislation process, as I have said, effectively sidelines the ability of parliaments to amend and fully debate legislation. I feel that that is an issue that we need to be dealing with at a national level.

I note that, in relation to the consumer credit legislation, Western Australia has not been fully participating in that it will not adopt this legislation automatically. As I understand it, Western Australia has adopted complementary legislation which picks up all of the principles of the Consumer Credit Code. In terms of dealing with this issue, which I think is quite a significant one for parliaments across the country, that is one approach. There may be particular principles which are agreed on by ministers because it is necessary for us to have consistent legislation in some of these areas. There could be principles which the parliaments then enact in their own parliaments which meet those principles.

Another way of addressing this issue is to have in place a national scrutiny process whereby representatives from perhaps each of the scrutiny of legislation committees around the nation have a joint opportunity to scrutinise the proposed legislation prior to it being introduced. I know that this is an issue that scrutiny committees are putting their mind to at the moment. It has been of concern to scrutiny committees for a while. I do think it is an issue that needs to be given a little bit more thought. I do not know what is the best way to proceed. As I said, we do need a process. We do need to have something that allows consistent legislation. I just feel that the parliament should have a little bit more of an active role in that process.

Getting back to the specifics of this bill, my advice to prospective borrowers, even with this legislation in place, is: beware. There are still a lot of traps with payday lending. Despite the transparency, people can get trapped by high interest rates and charges. They should be very careful before they sign on the dotted line. With those few words, I congratulate the minister again. This is good legislation. It will help a lot of consumers. I commend the bill to the House.
