



Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

Hansard Thursday, 17 September 2009

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

Mr POWELL (Glass House—LNP) (11.30 am): I rise to make a brief contribution to the debate on the Personal Property Securities (Commonwealth Powers) Bill 2009. I note that this bill would refer relevant state legislative power to the Commonwealth parliament to enable it to enact national laws for the regulation of personal property securities, including motor vehicles, boats, contractual rights and uncertified shares, and to establish and maintain a national register for all personal property security interests. My contribution will focus primarily on concerns identified in *Legislation Alert No. 8 of 2009*. At the outset I want to thank Julie Copley, the research director for the Scrutiny of Legislation Committee, for her tireless effort and all of the work that she puts in to assist the committee in preparing these alerts.

Mrs Miller: Hear, hear!

Mr POWELL: I take that interjection from the member for Bundamba. I know that, as chair of the committee, she shares my appreciation of Julie's role. In particular, I want to express some concern around what has been raised in the *Legislation Alert* under the heading 'Clear Meaning'. Paragraphs 19 to 23 of the *Legislation Alert* set the scene and identify that this bill has been drafted on the template provided by similar bills tabled in the New South Wales and Victorian parliaments. The bill is also informed by the Commonwealth legislation introduced on 24 June 2009, and herein lies the concern, because subsequent to these tablings a range of scrutiny committees have reviewed the template legislation and found it wanting. In particular, paragraph 25 of the *Legislation Alert* states—

Although, for the purposes of the Queensland referral bill, the Commonwealth PPS Act, is stated in clause 3 to be 'substantially in the terms' of the tabled text, the committee notes that the recommendations of the majority of the Senate Legal and Constitutional Affairs Legislation Committee indicate possible substantive amendments to the Personal Property Securities Bill 2009 (Cth). The Senate committee recommendations were (vii):

Recommendation 1: The committee recommends that the Bill be passed subject to a commitment from the government to:

- *Thoroughly consider all concerns brought to the government's attention about the Bill until 30 September 2009, including the concerns raised in the submission to this inquiry;*
- *Provide greater transparency by making public its response to the concerns raised and by providing as much information as possible to stakeholders about policy considerations and choices. This could be done using the department's website; and*
- *Include in a consequential amendments bill to be debated in the Senate cognately with this Bill and intended to take effect immediately after the commencement of the 2009 Bill all changes to the Bill identified as a result of concerns raised with this committee and subsequently directly with the department during the recommended further period of consultation until 30 September 2009.*

Recommendation 2: That subject to the foregoing recommendation, the Bill being supported.

The *Legislation Alert* goes on to state in paragraph 26—

The recommendations were made in an interim majority report which identified the following matters as requiring further consideration:

- genuine concerns identified in submissions about how provisions would operate ... ;
- the difficulty of assessing the complete legislative scheme when the regulations and the proposed amendments to other legislation were not available ... ;

- with referring legislation already passed by the New South Wales Parliament and the legislative process underway in other States, how any amendments to the Personal Property Securities Bill 2009 (Cth) might best be achieved ... ; and
- many technical issues remaining unresolved, some of which had emerged since consultation regarding exposure draft legislation ...

The explanatory notes do make some paltry response to this concern, but the Scrutiny of Legislation Committee's concerns remain and it concludes—

... that a 'consequential amendments bill' addressing issues identified in the majority report of the Senate Legal and Constitutional Affairs Legislation Committee might include amendments which could not be regarded as 'minor'. Accordingly, the Commonwealth PPS Act, once passed, might not in fact be 'substantially' in the terms of the tabled text.

That has flow-on effects for this legislation before the House today. For this reason, I ask the minister to show caution. Is it completely necessary that we proceed so rapidly with this debate given we may be back here in less than six months debating substantial amendments to this bill? I look forward to hearing the minister addressing these concerns when he responds in due time.