



Speech by

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MEMBER FOR SURFERS PARADISE

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CRIMINAL PROCEEDS CONFISCATION AND OTHER ACTS AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—LNP) (8.04 pm): I rise to make a brief contribution to the debate on the Criminal Proceeds Confiscation and Other Acts Amendment Bill. At the outset I reiterate our support for the bill and commend the shadow minister, the member for Toowoomba South, on his contribution to debate of the bill.

Of the four acts amended by this bill, I would like to address specifically the amendments to the Trusts Act 1973. Part 5 of the bill—clauses 80 to 86—contains a raft of amendments that affect the way donations are received by Queensland institutions that fall outside the legal classification of a charitable trust. As the shadow minister for the arts, I am particularly interested in these amendments as two of the organisations affected by this legislation are the Queensland Art Gallery and the State Library of Queensland.

As the Attorney-General noted in his second reading speech, the Queensland Art Gallery and the State Library are not considered charities at law, which not only has its own tax implications but also precludes charitable foundations donating to those public institutions. Previously, in order for charitable foundations to retain their tax exemption grants, donations could only be made to charitable trusts. The federal taxation rules prevented charitable foundations donating money to other forms of trusts such as that operated by the board and trustees of the Queensland Art Gallery.

Whilst it could rightfully be said that institutions like the Queensland Art Gallery, which provides free admission to most exhibitions and has played an integral role in developing Queensland's cultural and arts scene, have a charitable purpose that would certainly fit within the charitable heads established in *Commissioners for Special Purposes of Income Tax v Pemsel* and uphold the spirit of the old English Statute of Elizabeth that originally defined 'charity', they are unable to be legally classified as charitable trusts because of their close association with government. Unfortunately, this classification prohibits some charitable donors from making bequests to the Queensland Art Gallery because doing so would affect their own tax status. Recent changes to the Commonwealth Income Tax Assessment Act 1997, however, now allow charitable foundations to make tax deductible donations to eligible recipients without jeopardising their own tax-exempt status.

I certainly hope that this positive change will provide an influx of donations to institutions like the Queensland Art Gallery and the State Library to allow them to carry on their valuable work and, hopefully, extend their operations such as the travelling exhibitions carried out by the Art Gallery and GoMA, the Gallery of Modern Art, to give more Queenslanders the opportunity to engage in culture and learn more about the arts, much as we see occur in the United States, where such institutions receive lots of philanthropic donations. It is a culture that we would like to develop in Queensland, but traditionally we have not done so. Therefore, we have to look for other ways to get donations.

The amendments to the Trusts Act contained in the bill are necessary to ensure the trustees of our public institutions are able to accept such donations. At present, the limitations that I mentioned are

reflected in the trust instruments, which means that accepting a donation authorised under federal law but not provided for in state law would constitute a breach of the trust agreement. The nature of a trust precludes the trustees from altering the trust instrument themselves in order to allow charitable funds to donate to public institutions, including health research facilities.

By passing the amendments contained in part 5 of this bill we will ensure that our public institutions can take advantage of the new rules to maximise their operating revenue through donations, as I have already mentioned. To this end, the bill outlines the administrative arrangements that must be complied with by the trustees, such as executing a deed confirming the new rules applying to that trust, in order for these changes to the Trusts Act to apply to them. These arrangements will be made known to the ATO in order to ensure the trust benefits from the new trust laws.

I think most members would agree that the Queensland Art Gallery and GoMA provide a wonderful service to residents of and visitors to Brisbane. I have had the pleasure—as many members have—of visiting the Art Gallery and the State Library on a number of occasions. We all know them to be world-class but, as with infrastructure, we need to keep financially supporting our arts institutions to keep them world-class and also to encourage philanthropic donations by willing citizens.