Speech by

Annastacia Palaszczuk

MEMBER FOR INALA

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GUARDIANSHIP AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT BILL

Ms PALASZCZUK (Inala—ALP) (Leader of the Opposition) (11.26 am): I rise to make a contribution on the Guardianship and Administration and Other Legislation Amendment Bill. This is an omnibus bill and contains amendment to a raft of legislation across a wide range of areas. I note the comments by the Queensland Law Society in its submission to the committee on the consideration of the bill that commends the Attorney and the drafters on making it evident from the short title of the bill that it is actually an omnibus bill. However, the committee itself has previously raised concerns about this issue, and its main concern was in relation to members who, when faced with a bill that covers vastly different and unrelated pieces of legislation and that covers a diverse range of policy areas, may feel they are restricted in how they respond.

Some of the matters contained in this bill are noncontroversial and are of little significance and most members would be comfortable supporting them. Other matters, however, are of some significance and might be expected to elicit a range of views on the policy intent. Members then might be opposed to some matters and support others and therefore find it difficult to vote on the bill as a whole. I note that the committee in its report concluded that the matters contained in this bill are relatively noncontroversial therefore the problem is not so significant in this case. I disagree with the committee in this respect and again note that a bill of this nature breaches the fundamental legislative principles contained in section 4(2)(b) of the Legislative Standards Act 1992 in that it fails to have sufficient regard to the institution of parliament.

The bill is titled the Guardianship and Administration and Other Legislation Amendment Bill and the major changes are in relationship to the Guardianship and Administration Act 2000. This was legislation introduced by the Beattie Labor government to create the role of the Public Advocate and the Adult Guardian and to create a scheme for the administration of the affairs of adults with impaired decision-making capacity.

The Webbe-Weller report recommended merging the two offices of the Public Advocate and the Adult Guardian. Queensland is in fact the only jurisdiction where the individual advocacy and systems advocacy are undertaken by two separate statutory positions. It was originally the intention of the government to adopt this recommendation. However, after further consultation with the sector, it was decided by the previous Attorney-General to maintain a separate Public Advocate position. Both the government and the opposition went to the last election with this policy intent. In fact, the Attorney, as shadow Attorney, made much of the importance of this role.

That was why we were so concerned as an opposition earlier this year when the appointment of the Acting Public Advocate expired and the Attorney failed to appoint a replacement for a few months. It left this very important position unable to fulfil any of the roles that are only able to be performed by the Public Advocate. This includes intervening in Queensland Civil and Administrative Tribunal, coronial or other proceedings involving people with diminished capacity.

This meant that for more than three months no-one could carry out those roles. If the Attorney genuinely considered this role to be so important, how could he leave it empty for so long and how could he have left those vulnerable Queenslanders with no-one to act on their behalf?

Mr Bleijie: How long did you have an acting arrangement in place? For years. We were the first ones to appoint a full-time advocate.

Mr DEPUTY SPEAKER (Mr Berry): Order! The Attorney-General will cease interjecting.

Ms PALASZCZUK: Mr Deputy Speaker, I am not actually debating this at the moment; I am giving a response.

Mr Bleijie: I will respond all right.

Mr DEPUTY SPEAKER: Order! The Attorney-General will cease interjecting.

Ms PALASZCZUK: I understand that the Attorney's own department alerted him to the problem in early June but still he failed to act. He is saying across the chamber that some acting arrangements were put in place. I am happy for him to raise these issues at length—

Mr Bleijie: No, I said, 'How long were your acting arrangements in place? Years.'

Ms PALASZCZUK: Mr Deputy Speaker?

Mr DEPUTY SPEAKER: Order! The Leader of the Opposition has the call.

Ms PALASZCZUK: In addition to failure to appoint a replacement in a timely fashion, there was another more pressing problem. Apparently the department was also concerned that the agency was understaffed, the full complement of seven staff having been reduced to just three, with two of those remaining on contracts which were soon to expire, but I am quite sure the Attorney will be able to expand on that a little later as well.

In relation to this issue, the Australian Catholic University public policy professor Scott Prasser criticised the inaction of the Attorney-General. A *Courier-Mail* article dated 26 July 2012 entitled 'Vulnerable Queenslanders are being left without a voice' states—

'I find it extraordinary they haven't got that in order, given it's a statutory position, Prof Prasser said. 'Either the last person in the position should have been given an extension, or they should have started a process of reappointment before the due date.'

I was pleased to see the Attorney finally appoint a new Public Advocate in August this year and we welcome Ms Jodie Cook to this very important position. However, there was a quite unusual aspect to the Public Advocate's appointment, and this is an unusual process matter. I note from the Attorney-General's diary that my office obtained under RTI there were four entries on 26 July 2012 for the Attorney to attend interviews for the position of Public Advocate. It appears from the diary that the Attorney may have sat on the interview panel and I would ask whether or not that was the case. It may be; it may not be. I just want some clarification in relation to that matter.

Mr Bleijie: Yes, I did. Does it matter?

Mr DEPUTY SPEAKER: Order! The Attorney-General can reply later on. I call the Leader of the Opposition.

Ms PALASZCZUK: Thank you, Mr Deputy Speaker. The Attorney just indicated across the chamber that he did indeed sit on that panel. I also note the amendments to protect the confidential information of individuals who might be the subject of a report by the Public Advocate. New section 209A provides that the report should not contain information likely to result in the identification of an adult with impaired decision making. Certainly protection of a person's confidential information is of paramount importance and I welcome this amendment.

I also welcome new section 210B, which prohibits the Public Advocate or any member of the Public Advocate's staff from publishing information to the public that is likely to result in the identification of the person to whom the information relates by a member of the public. But I am concerned that it only applies to the Public Advocate or a member of their staff. There will certainly be other people who might have access to this information and therefore be capable of publishing it to the public. If a person were in breach of this section by giving the information to a media outlet, for example, there is nothing to prevent the media outlet from publishing the material.

I note that section 142 of the Hospital and Health Boards Act 2011 prohibits the disclosure of confidential information by a designated person, but that did not stop the publication of some confidential information about a female patient at the park under a forensic order. I know that this issue was raised at an estimates hearing and I note that the Minister for Health is here. My recollection is that the director-general was going to further look into that matter.

Mr Springborg: I was looking down. I did not hear the first part of what you said, sorry.

Mr DEPUTY SPEAKER: Order! It would probably help the chamber if the Leader of the Opposition was not seeking direct answers all the time across the chamber and stuck to her speech.

Mr Bleijie: I would have thought your 22 staff would have had it sorted out for you. An overresourced opposition.

Ms PALASZCZUK: Mr Deputy Speaker, the Attorney has interrupted on a number of occasions.

Mr Bleijie: You have been asking me questions!

Mr DEPUTY SPEAKER: Order! The Leader of the Opposition when making her speech has the opportunity to take interjections or not take interjections according to standing orders, and I would suggest that the Leader of the Opposition consider that.

Ms PALASZCZUK: Thank you, Mr Deputy Speaker. The next set of amendments relates to the Electoral Act 1992, which removes the provision of administrative funding to political parties and Independents. The measures which are being repealed were inserted last year as part of the Electoral Reform and Accountability Amendment Act 2011. The Attorney-General announced in his introductory speech to the bill that he would be releasing a green paper. The opposition will not be opposing these amendments and we look forward to the green paper process.

This bill also amends the Electrical Safety Act by abolishing the position of Commissioner for Electrical Safety, abolishing two of the standing committees he chairs—the Electrical Safety Education Committee and the Electrical Equipment Committee—and creating a position of chairperson to oversee the functions previously performed by those committees and to chair the Electrical Safety Board. The commissioner's role was established as a result of an independent task force that made recommendations to increase electrical safety in Queensland after a significant number of electricity related deaths in Queensland. This position is an independent one and has a significant role in advising the minister. It is important, therefore, that the independent nature of this role be maintained.

The Electrical Safety Education Committee and the Electrical Licensing Committee have been undertaking important work since the act was implemented under the guidance of the commissioner. As a result, we have seen some extraordinary improvements in electrical safety outcomes in Queensland. The Electrical Trades Union made a substantial and well-researched submission to the committee on this aspect of the bill, and it is to be commended for its diligence and thoroughness in this regard. As the relevant part of its submission outlines on page 5—

Immediately prior to the introduction of the Act in 2002 and subsequently, the government and the ESO was involved in a massive public awareness campaign about the provisions of the Act and the need for people to work more safely. As a result of this the number of fatalities in the industry dropped dramatically from 10 in 2000/01 to 1 in 2002/3.

Unfortunately, this dramatic reduction has not been maintained. However, looking at the Fatalities in Queensland as a result of an electrical incident, the moving five year average has gone from a figure consistently between 3 and 4 in the 1990's to 1.16 for the period 2006-2011. Queensland has gone from having a five year average higher than the national average to one that has consistently been lower than the national average.

The fact that this change began in 2002, that is, the year that the Act commenced, suggests there is a direct link between the changes brought about with its introduction.

I am concerned that no consultation was undertaken with stakeholders before such important amendments were included in the legislation. I am also unconvinced by a bald statement in the explanatory notes that 'these amendments are not expected to result in any reduction in electrical safety outcomes'. Without any research, without any consultation, without asking stakeholders who have been engaged with this legislation for over a decade since it was introduced what they think is the best way forward, the government is happy to just abolish these positions and hope for the best.

I note what the Attorney-General said during the estimates hearing about the wonderful education work that has been undertaken by the Electrical Safety Office to make people more aware of their obligations under the legislation and how they can improve safety outcomes. But this is being done under the present structure and it is not possible to merely state that this will continue under an alternative scheme. And how do we know? One death of a Queenslander as a result of an electrical safety accident is one death too many. I hope this short-sighted legislation does not result in any increased deaths.

In his introductory speech the Attorney spoke of the substantial ongoing savings to government that the amendments will achieve. The explanatory notes state—

There are significant expenses (especially travel) associated with safety education and equipment committee meetings.

Yet according to the ETU submission it is its understanding, and I bow to its more in-depth knowledge on these matters than I have, that—

Of all of the committee members, the ETU understands that the only costs for the Electrical Equipment Committee are flights from Cairns, Townsville and Rockhampton. There is no payment of travel allowance, there is no overnight accommodation provision, there is no provision of lunch. Given the clear benefits to the community of this committee, the cost of flights (presumably in the order of $1000 per committee meeting) seems more than reasonable.

That does not appear to be the significant expenses outlined in the explanatory notes, and I hold grave concerns when safety is reduced to a dollars and cents argument. I wonder what cost the government places on the life of a Queenslander. The only basis I have found in the explanatory notes or the committee's report, or even the submissions, is a statement in the one-page submission of the Electrical Contractors Association that—

The ECA is ... confident that the proposed amendments to the Electrical Safety Act 2002 will not reduce the inspectorate's capacity to respond to incidents and complaints nor in any other way compromise the electrical safety of electrical workers or the wider Queensland public.

I think my concern is well-founded when we have seen the absolute decimation of the workplace health and safety inspectorate in the budget this year. This government is of the firm view that worker safety is the sole responsibility of the federal government. What assurances do we have that there will be no reduction in the inspectorate and the education staff of the ESO under this new model? I ask the Attorney to give an assurance during his address in reply that there will be no decrease in the number of people employed by the ESO as a result of these changes and no reduction in funding. As the ECA themselves pointed out in their submission—

We anticipate that the resources previously dedicated to maintaining the position of a commissioner and permanent committees can then be utilised to fund activities specifically targeted at maximising electrical safety, such as education, training and public awareness campaigns.

Will the minister guarantee this will be the case?

Another issue of concern in these amendments is the reduction in mandatory qualifications required for the new chairperson position compared with those for the commissioner. The commissioner was required to have an electrical trade or qualification and professional experience in electrical safety; the new chairperson of the Electrical Safety Board does not require a trade or qualification but merely requires professional experience in electrical safety. The department has responded to this by saying that it broadens the 'pool of persons'. That is certainly a glass half-full approach, but I think we prefer a narrower pool of people with a higher skill set and more in-depth knowledge of the industry and certainly some hands-on experience in the industry. I wonder what professional experience in electrical safety would meet the requirements of the new section. I would ask the Attorney-General to please outline the minimum standard of professional experience he would require before he would appoint someone to that position just so that we can be reassured that there will be no reduction in that role.

The next amendments relate to the Penalties and Sentences Act 1992 in relation to the imposition of the offender levy. They seek to include an exception for a breach of bail offence under section 33 of the Bail Act 1980. The original bill creating the offender levy exempted a breach of bail offence under section 29 of the act and section 33 was missed. This just clarifies that both offences are excluded from the operation of the offender levy.

The proposed amendments to QCAT were included in the Law Reform Amendment Bill 2011 that was introduced into the 53rd Parliament and lapsed when the parliament was prorogued. They allow legally qualified members to perform certain functions that could previously only be performed by judicial members—the president, a Supreme Court judge, the deputy president and a District Court judge. These include orders to transfer a matter to a more appropriate forum under section 52(7), power to grant injunctions under section 59(4) and power to make declarations under section 60(5). It also allows former judges who currently sit on QCAT as senior or ordinary members to exercise the powers that can only be exercised by a judicial member.

There are also consequential amendments to a couple of acts as a result of these amendments. The Motor Accident Insurance Act 1994 is amended to ensure that the judicial member who constitutes a tribunal under section 68 of the act is a Supreme Court judge, not a legally qualified person in accordance with the amendment. The Legal Profession Act 2007 is also amended to allow the president of QCAT to appoint a former Supreme Court judge to constitute a tribunal under the act. At present, only a sitting Supreme Court judge is able to. This is in line with the amendment to QCAT.

Similarly, the amendments to the Trustee Companies Act 1968 facilitate the voluntary transfer of trustee company assets from one trustee company to another under the new national framework. They also allow the compulsory transfer of trustee company assets to the public trustee by ASIC. The Registrar of Titles can then register the transfer of an asset or liability where ASIC issues a certificate of transfer under the scheme. These amendments, which are necessary to give effect to the national scheme, are not controversial.

The opposition cannot support this bill because we are opposed to the abolition of the position of Electrical Safety Commissioner and the change in status of the Electrical Safety Education Committee and the Electrical Licensing Committee. Unless we can be assured that there will be no reduction in electrical safety in Queensland based on empirical evidence and not the opinion of the Electrical Contractors Association, we cannot support these changes.