



QUEENSLAND PARLIAMENT
Ethics Committee

REPORT NO. 216, 57TH PARLIAMENT

**Matter of privilege referred by the Speaker on
1 December 2022 relating to an allegation against the
Member for South Brisbane
of wilfully or recklessly disrespecting rulings of the
Speaker**

October 2023

Ethics Committee

Chair	Ms Jennifer Howard MP, Member for Ipswich
Deputy Chair	Mr Andrew Powell MP, Member for Glass House
Members	Mr Linus Power MP, Member for Logan
	Mr Daniel Purdie MP, Member for Ninderry
	Ms Kim Richards MP, Member for Redlands
	Mr Ray Stevens MP, Member for Mermaid Beach

Functions and procedures

The Ethics Committee (the committee) is a statutory committee of the Queensland Parliament established under section 102 of the *Parliament of Queensland Act 2001*. The committee of the 57th Parliament was appointed by resolution of the Legislative Assembly on 26 November 2020.

The committee's area of responsibility includes dealing with complaints about the ethical conduct of particular members and dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons. The committee considers and reports on matters of privilege and possible contempts of parliament referred to it internally by the Speaker, the Registrar, a committee, or the House. This is an important element of the Parliament's exclusive cognisance over its own affairs, which enables it to fulfil its functions.

The committee has established procedures and practices for dealing with referrals which ensure procedural fairness and natural justice is afforded to all parties. These procedures are set out in chapters 44 and 45 of Standing Orders. The committee is also bound by the instructions regarding witnesses contained in Schedule 3 of the Standing Orders.

The committee applies the civil standard of proof, on the balance of probabilities, in making a finding of contempt. This is a lower standard than the 'beyond reasonable doubt' standard required for criminal matters. However, proof of a very high order is required to make a finding of contempt, consistent with the test applied in relation to misconduct charges at common law.

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BACKGROUND

1. This report concerns allegations the Member for South Brisbane, Dr Amy MacMahon MP, wilfully or recklessly disrespected rulings of the Speaker and in doing so, was in contempt of Parliament.
2. On **17 November 2021**, the Speaker ruled out of order the Big Bank Levy (COVID-19 Health Response) Bill 2021 (the Big Bank Levy Bill), a private member's bill introduced by the Member for South Brisbane.¹
3. The Member for South Brisbane subsequently moved a motion of dissent to that ruling, and circulated legal advice that it was acceptable for a revenue bill to be introduced by a private member.
4. The dissent motion was debated on **1 December 2021**, and defeated.
5. On **13 October 2022**, the Member for South Brisbane commenced introduction of the Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022 (Empty Homes Levy Bill). During the introduction another member raised a point of order, that the Bill was an appropriation bill, and/or revenue bill, which was not accompanied by a message from the Governor as required.
6. The temporary Speaker in the chair at the time, advised that he could not consider the point of order.
7. On **26 October 2022**, the Speaker ruled the Empty Homes Levy Bill out of order.
8. The Speaker advised that the bill was out of order like the Big Bank Levy Bill, because they both sought to raise revenue for the state, and thus breached the constitutional convention of the financial imperative of the Crown.
9. On **30 November 2022**, the Member for South Brisbane sought to introduce a further private member's bill, the Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022 (the Cost of Living Bill). The Speaker ruled this third bill out of order, noting that it was contrary to the previous rulings about revenue bills, and also in contravention of section 68 of the *Constitution of Queensland Act 2001*² and Standing Orders (SO) 174(1)³ and 175(1) because it sought to appropriate (spend) funds from state revenue without a message of recommendation from the Governor.⁴
10. The Speaker made a further ruling with respect to this on **1 December 2022**, which in part stated:

Members have a right to introduce private members' bills and have them considered. However, Members do not have a right to ignore the rules and introduce bills that they know are out of order. This was not the first time, or the second time, but the third time the member has engaged in this activity.

It wastes time. It wastes resources. It shows blatant disrespect for the Speaker and the Assembly.

As I stated yesterday, rules mean something in this House. Deliberate, continual attempts to breach the rules, or repeatedly and knowingly ignoring the rules, not only disrespects the authority of the Speaker, it interferes with the Legislative Assembly's authority and functions.

In Ethics Committee Report No. 118 the committee discussed the obligations and duties on members to abide by rules of the Assembly and how members may be in contempt by wilfully or recklessly breaching the Assembly's rules.

¹ The Member for South Brisbane introduced the Big Bank Levy (COVID-19 Health Response) Bill 2021 on 27 October 2023, https://documents.parliament.qld.gov.au/events/han/2021/2021_10_27_weekly.pdf#page=41.

² <https://www.legislation.qld.gov.au/view/pdf/2020-03-19/act-2001-080>.

³ No proposal (including a Bill or a motion) for an appropriation that falls within the meaning of s.68 of the Constitution of Queensland 2001 shall be introduced unless first recommended by a message of the Governor as required by that section.

⁴ When a message from the Governor, recommending that an appropriation of money be made for a Bill is required, the message shall be presented to the Speaker and read to the House immediately prior to the question for the first reading of the Bill.

*I will be referring the Member for South Brisbane's wilful conduct in disrespecting rulings to the Ethics Committee for its consideration.*⁵

11. On **12 December 2022**, the Speaker wrote to the committee, alleging that the conduct of the Member for South Brisbane arguably falls within the following examples of contempt set out in SO 266:

(1) breaching or interfering with any of the powers, rights and immunities of the House;

(11) misconducting oneself in the presence of the House or a committee;

(22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee; and

(24) contravening the requirements and orders imposed by the operation of the Parliament of Queensland Act (see also examples 7 and 8 s 37 of the Parliament of Queensland Act and s 58 Criminal Code).

CONTEMPT OF PARLIAMENT

12. Section 37 of the *Parliament of Queensland Act 2001* (the POQA) defines the meaning of 'contempt' of the Assembly as follows:

(1) "Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.

(2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—

(a) the free exercise by the Assembly or a committee of its authority or functions; or

(b) the free performance by a member of the member's duties as a member.

13. SO 266 states in part:

Examples of contempt

Without limiting the power of the House, it may treat as a contempt any of the following:

(1) breaching or interfering with any of the powers, rights and immunities of the House;

...

(11) misconducting oneself in the presence of the House or a committee;

...

(22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee; and

...

(24) contravening the requirements and orders imposed by the operation of the Parliament of Queensland Act (see also examples 7 and 8 s 37 of the Parliament of Queensland Act and s 58 Criminal Code).

14. While some types of conduct have been identified as potential contempts, the term 'contempt of parliament' may include any offence to the dignity of the House or interference with its processes where no established privilege has previously existed. As detailed in Erskine May's *Parliamentary Practice*:

Each House also claims the right to punish as contempts actions which, while not breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its Members or its officers...⁶

⁵ Record of Proceedings, 1 December 2022, p 3819, https://documents.parliament.qld.gov.au/events/han/2022/2022_12_01_WEEKLY.pdf.

⁶ CJ Boulton (ed), *Erskine May's Treatise on the Law, Privileges, Proceedings and usages of Parliament*, 22nd Edition, Butterworths, London, 1997, p 65.

15. Accordingly, a contempt may be committed if the conduct in question amounts to an act or an omission that offends the authority or dignity of the House or a breach of a duty legitimately imposed by the House upon its Members.

The committee's proceedings

16. The committee has established procedures and practices for dealing with referrals which ensure procedural fairness is afforded to all parties. These procedures are set out in chapters 44 and 45 of Standing Orders.
17. On 13 January 2023 and 7 March 2023, the committee wrote to the Member for South Brisbane requesting further information in relation to the allegations. The Member responded on 30 January 2023 and 21 March 2023.
18. On 4 May 2023, the committee wrote to the Member for South Brisbane seeking a submission in response to the allegation the Member's conduct may amount to contempt in accordance with SO 266(22); and on 29 August 2023 the committee sought a submission from the Member in respect of its preliminary finding of contempt. The Member for South Brisbane provided the respective submissions on 19 May 2023 and 11 September 2023.
19. The examples of contempt of Parliament provided in the POQA and in the Standing Rules and Orders of the Legislative Assembly, are not a series of separate 'offences' with which a member might be charged. They are examples of the sort of conduct that may, if the definition of contempt of Parliament in section 37 of the POQA (see paragraph 12) is satisfied. Thus, they offer a benchmark and precedents against which to assess the conduct in question against the definition of contempt.
20. While the Speaker has suggested in his referral that the Member for South Brisbane's conduct may amount to a contempt in accordance with SO 266(1), (11), (22) and (24), it is the committee's role to determine any potential contempt, that is, satisfaction of section 37 of the POQA, based on the referral and the information it gathers.
21. An initial assessment against the specific examples in the referral led the committee to conclude that the Member for South Brisbane's conduct may amount to a contempt in accordance with SO 266(22): wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee.
22. The committee determined that further consideration would not be given to the following examples of contempt identified by the Speaker in his referral, for the reasons provided:
 - given the general nature of SO 266(1), consideration of this example of contempt becomes redundant when the conduct in question falls more readily within SO 266(22)
 - on the information before the committee, an arguable case did not arise that the Member for South Brisbane's conduct would amount to contempt in accordance with SO 266(11)
 - it is the committee's assessment that the Member for South Brisbane's conduct does not fall within SO 266(24).
23. The committee has used the example provided by SO 266(22) to aid its assessment of whether a finding of contempt under section 37 of the POQA, as the most appropriate in the circumstances.

SO 266(22): wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee

24. The question before the committee was whether the Member for South Brisbane's conduct in seeking to introduce two different private member's bills seeking to raise revenue and/or appropriate funds, subsequent to the Speaker's rulings in respect of the first and second introductions of revenue bills by the Member, that such bills are out of order, amounts to wilfully disobeying an order of the House or disrupting the orderly conduct of the House or a committee such that it might be a contempt of the Assembly.

25. This specific example of contempt has only been considered once by a predecessor Ethics Committee, in its Report No. 200. That report examined whether the Member for Everton had wilfully disobeyed an order of the House when allegedly breaching SO 271, which restricts debate on a matter currently before the Ethics Committee. In that matter, the Member asked a question during question time which referred to a matter currently before a predecessor Ethics Committee.⁷
26. That committee noted that standing orders are permanent orders of the House and determined the Member for Everton had breached an order of the House.⁸ As to whether that breach was ‘wilful’:
- The committee considers this element of wilfulness must be of a high threshold, categorically showing intent, otherwise each breach of a standing order could potentially also be a contempt under SO 266(22), thus nullifying the effect of SO 266(22) as a stand-alone contempt.*
- There is no relevant judicial definition of ‘wilful’, because any definition is dependent on the context specific use of the word and is not readily applicable to parliamentary law.*
- The committee therefore turned to the Macquarie Dictionary which defines wilful as ‘willed, voluntary, intentional’.⁹*
27. That committee also noted:
- In determining if the Member for Everton’s breach of SO 271 was wilful, the committee noted that once the Speaker had ruled the question out of order, the Member for Everton did not persist, nor did he attempt to ask a similar question at any point in the future.*
- The committee considers that a persistent breach of a standing order would be more likely to reach the threshold of ‘wilful’ required to enliven SO 266(22).¹⁰*
28. The former Ethics Committee did not consider the second aspect of the standing order relating to ‘disrupting the orderly conduct of the business of the House or a committee’.
29. There are two ways that wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House (SO 266(22)) might amount to contempt. The first is ‘wilfully disobeying an order of the House’; and the second is ‘disrupting the orderly conduct of the House’. We considered these separately.
30. The elements for the first way this example of contempt might be assessed can be extrapolated as:
- Element 1: Was an order of the House disobeyed?
 - Element 2: Was the disobedience wilful?
 - Element 3: If yes, did the disobeying of the order amount to, or was it intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions?

Wilfully disobeying an order of the House

Element 1: Was an order of the House disobeyed?

31. On 17 November 2021, the Speaker ruled the Member for South Brisbane’s Big Bank Levy (COVID-19 Health Response) Bill 2021 out of order as it sought to raise revenue, which meant it breached a fundamental constitutional convention of the financial imperative of the Crown.
32. The Member for South Brisbane moved a motion of dissent to that ruling which was debated on 1 December 2021. The outcome was that the House did not agree to dissent from the Speaker’s ruling.

⁷ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2020/5620T1304.pdf>.

⁸ McGee, D, *Parliamentary Privilege in New Zealand*, 3rd Edition, Dunmore Publishing Ltd, Wellington, 2005, at 119.

⁹ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, p 6.

¹⁰ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, p 7.

33. On 13 October 2022, the Member for South Brisbane attempted to introduce another private member's bill, the Empty Homes Levy Bill. The Speaker ruled that bill out of order on 26 October 2022, referencing the dissent motion and reiterating his earlier ruling in respect of a revenue bill:

That dissent was debated on 1 December 2021. The House affirmed my ruling. Indeed, so few members supported the dissent motion that the vote was not recorded. A ruling being challenged by a dissent is effectively an appeal to the House. The affirmative decision by the House to support a Speaker's ruling is a higher form of precedent than the initial ruling by the Speaker. The House has made a clear decision to support that ruling. The House is the master of its own proceedings. The House has upheld the principle of the fundamental constitutional convention of the financial imperative of the Crown. The House has held that a private member's bill which seeks to increase or impose revenue would breach that convention and is out of order.

The Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022 is a private member's bill that seeks to increase or impose revenue and breaches the fundamental constitutional convention of the financial imperative of the Crown. It is therefore out of order and it is discharged from the Notice Paper.¹¹

34. Then on 30 November 2022, the Member for South Brisbane attempted to introduce the Cost of Living Bill during the time allocated in the sessional orders for the introduction of private members' bills (as she had done when introducing her previous bills). The Cost of Living Bill sought to both raise revenue and appropriate funds.

35. During the introduction of her bill, the Speaker interrupted the Member and asked her to resume her seat, which she did. The Record of Proceedings shows the following:

Mr SPEAKER: ... It is clear that the bill is a revenue bill. On 17 November 2021 and 26 October 2022 I ruled private members' bills introduced by you out of order. The first ruling was upheld by the House. This bill is not only a revenue bill but also an appropriation bill, as any money from royalties goes into the Consolidated Fund, in accordance with section 64 of the Constitution Act 2001, and a message is required for the appropriation from that fund pursuant to section 68 of that act. Do you have a message for the appropriation as required by section 68 of the Constitution of Queensland Act? I think not.

Dr MacMAHON: No, Mr Speaker, but I note that—

Mr SPEAKER: Member, I am still giving a ruling. Rules do mean something in this House. The bill is out of order on two bases: firstly, it is a revenue bill introduced by a private member; and, secondly, it is an appropriation bill that does not have a message and thus is contrary to section 68 of the Constitution. Section 68 states, 'The Legislative Assembly must not originate or pass a vote, resolution or Bill' without a message. The presentation of this bill cannot proceed any further and it is out of order.

I also note this is not the first and not the second but the third time you have wilfully and deliberately ignored the standing orders of the House and the rules of this parliament. I reserve my right in future to consider whether this may warrant the Ethics Committee's consideration, as certainly it could be deemed a deliberate contempt of the House.¹²

36. The Speaker submitted to the committee that because the Cost of Living Bill was not only a revenue bill but also an appropriation bill, the bill was not only contrary to his rulings about revenue bills but also the requirements of section 68 of the *Constitution of Queensland Act 2001* (the Constitution) and SOs 174(1) and 175(1).

The Member for South Brisbane's response

37. In correspondence to the committee, the Member for South Brisbane advised that in no way did she intend to commit a contempt of parliament by making a policy proposal via a private member's bill;

¹¹ Record of Proceedings, 26 October 2022, p 3041, https://documents.parliament.qld.gov.au/events/han/2022/2022_10_26_WEEKLY.pdf.

¹² Record of Proceedings, 30 November 2022, p 3749, https://documents.parliament.qld.gov.au/events/han/2022/2022_11_30_WEEKLY.pdf.

and that the Greens' position on the question of whether crossbenchers can make revenue proposals in private member's bills has been consistent (that is, that it is allowable).

38. Further, when the Speaker ruled that the Big Bank Levy Bill was out of order, the Member for South Brisbane advised that with her colleague, the Member for Maiwar, Mr Michael Berkman MP, she took the following steps:

- shared legal advice from Queensland constitutional experts directly with the government, including advice from legal experts involved in the drafting of the Constitution arguing that it is not correct to say that crossbenchers cannot make revenue proposals
- lodged a motion of dissent from the Speaker's ruling of 17 November 2021
- tabled in the Legislative Assembly written advice from the Honourable Alan Wilson QC, Professor Gerard Carney and Professor Graeme Orr in support of their position, during the debate on the motion of dissent.¹³

39. In respect of the Empty Homes Levy Bill, the Member for South Brisbane submitted that on 13 October 2022, at the outset of her introductory speech for the Bill, another Member raised a point of order that 'appropriation bills required a message from the Governor', and that in relation to this issue the Temporary Speaker advised:

At this point in time, while the bill is still being introduced, it is not possible for that point of order to be considered. That is the advice that I have been provided with. Your point of order is noted, but the member for South Brisbane has the call as she is still introducing the bill to the parliament.¹⁴

40. The Member for South Brisbane argues that accordingly, at the time of introducing the Cost of Living Bill in November 2022, she was following a Speaker's ruling, which said that no determination about the bill's constitutionality could be made while she was on her feet.¹⁵

41. The Member for South Brisbane stated that despite the previous ruling of the Temporary Speaker, when she rose to introduce the Cost of Living Bill on 30 November 2022, the Speaker intervened, requiring her to sit down at the beginning of her speech, and therefore, the bill's first reading was never moved.¹⁶

42. The Member for South Brisbane contends that if the Cost of Living Bill contravened previous rulings of the House, section 68 of the Constitution and SOs 174(1) and 175(1) as alleged in the referral, then she submits that appropriate sanctions have already been applied by the Speaker in denying its introduction.¹⁷

Consideration

43. The committee first considered whether the Member for South Brisbane disobeyed an order of the House by repeatedly introducing a revenue bill contrary to an order of the House. In the first instance, this required consideration of whether a Speaker's ruling is an order of the House.

44. Not all rules are in Statute or Standing Orders. There are six sources for the laws and rules that govern how the Legislative Assembly goes about its work: statute (including constitutional documents); Standing Orders; Sessional Orders and other orders of the Assembly; rulings of the Chair; custom and practice (which includes constitutional conventions); and, in rare cases, where no rule or precedent exists, the practices of other parliaments can be relied on to guide proceedings.

45. With respect to the nature of Speaker's rulings, the committee acknowledges that while authoritative, rulings from the Chair are not binding. Rulings can change and adapt over time, and a future Speaker is not bound by the rulings of their predecessor.

46. The House of Representatives Practice states:

¹³ Correspondence from the Member for South Brisbane to the Ethics Committee on 30 January 2023, pp 2-3.

¹⁴ Record of Proceedings, 13 October 2022, p 2718, https://documents.parliament.qld.gov.au/events/han/2022/2022_10_13_WEEKLY.pdf.

¹⁵ Correspondence from the Member for South Brisbane to the Ethics Committee on 30 January 2023, p 3.

¹⁶ Correspondence from the Member for South Brisbane to the Ethics Committee on 30 January 2023, p 4.

¹⁷ Correspondence from the Member for South Brisbane to the Ethics Committee on 30 January 2023, p 4.

The question sometimes arises as to whether rulings are 'binding' and, in a literal sense, the answer is 'no', but the question is more complex than it may appear. There have been many rulings given over the years which are consistent with one another, consistent with the standing orders and conventions of the House, and which are supported, implicitly or explicitly, by the House. Such rulings form part of the body of practice which continues to govern the operations of the House and rulings with that status are, in effect, regarded as binding, although even then Speakers are able to give rulings which take account of new factors or considerations. In this way rulings and interpretations may be developed and adapted over time. From time to time rulings may be given which are inconsistent with previous rulings and interpretations, and which may be made in circumstances which do not allow sufficient opportunity for reflection. Even though such rulings may go unchallenged at the time, it would be incorrect to say that they are binding on future occupants of the Chair.¹⁸

47. On the question of whether a Speaker's ruling is an order of the House, the committee considers that in accordance with McGee and the former Ethics Committee in Report No. 200, standing orders are the permanent orders of the House, positively and specifically resolved by the House and only varied by the same approach. Speaker's rulings too are authoritative, and offer certainty and consistency through precedent. When successfully tested by resolution of the House as in this case, they are clearly an expression of the will of the House and members have a duty to follow them.
48. Standing Orders reinforce the authority of Speakers rulings, providing (for example) that the Speaker shall maintain order in the House,¹⁹ that dissent from a Speaker's ruling may only occur by motion on notice,²⁰ that Members may, after being warned, be named and suspended from the chamber for disregarding the authority of the Chair, or abusing the Rules of the House by persistently and wilfully obstructing the business of the House, or otherwise.²¹
49. As discussed at paragraphs 14 & 15 a 'contempt of parliament' may be committed if conduct amounts to an act or an omission that offends the authority or dignity of the House or a breach of a duty legitimately imposed by the House upon its members.
50. As the Member for South Brisbane submits, the ability of members to bring a bill forward provides them the opportunity not only to make legislation but to use the process to raise important issues and begin a wider campaign for a change in the law.²²
51. While the right of members to introduce legislation is a fundamental part of all Westminster systems, equally fundamental is the principle that only the Government may initiate or move to increase appropriations or taxes (the 'financial initiative of the Executive').²³ This is to ensure that a legislature cannot obstruct or impede the financial continuity of the government while the government retains the supply and confidence of the legislature.²⁴
52. The committee notes the Cost of Living Bill was also an appropriation bill. In Queensland, the financial initiative of the Executive is maintained through the requirement that bills which contain appropriations include a message from the Governor, as expressed in section 68 of the Constitution and further in SO 174.
53. Section 68 (1) of the Constitution states:

The Legislative Assembly must not originate or pass a vote, resolution, or Bill for the appropriation of—

 - a) ***an amount from*** the consolidated fund; or

¹⁸ Department of the House of Representatives, *House of Representatives Practice (7th Edition)*, p 192.

¹⁹ Standing Order 243.

²⁰ Standing Order 250(1).

²¹ Standing Order 254.

²² Procedures Committee, *Private Members' bills*, House of Commons, 2013, p 2.

²³ IC Harris, *House of Representatives Practice*, 5th Edition, Department of the House of Representatives, 2005, p 407; *Erskine May's treatise on the law, privileges, proceedings and usage of Parliament*, 25th Edition, House of Commons, 2019, para 33.2.

²⁴ WE Hearn, *The Government of England: Its Structures and Development*, Robertson, 1867, pp 369-370.

b) an amount required **to be paid to** the consolidated fund; (*emphasis added*)

that has not first been recommended by a message of the Governor.

54. Further, SO 174(1) requires an appropriation bill be accompanied by a message from the Governor, and SO 175(1) requires the message be read prior to the first reading of such a bill.
55. As noted by the Speaker in his rulings, 'our system of government is comprised of many fundamental conventions that are not expressed in legislation or standing orders but must still be preserved'.²⁵ From time to time the Speaker is called upon to rule on such matters, as has occurred here. The committee draws members' attention to the relevant Speaker's Ruling for the detailed argument in respect of this particular matter.²⁶
56. The committee is satisfied, that having contravened a permanent order of the House by introducing the Cost of Living Bill, an appropriation bill without a message of recommendation from the Governor as required by SO 174(1), the Member for South Brisbane has disobeyed an order of the House.
57. Further, the Speaker's ruling in respect of the Member's previous revenue bill had been upheld via the Member's failed motion of dissent, confirming the Speaker's ruling – thus, making it a higher, more authoritative source of procedure than a Speaker's ruling alone. In introducing the Empty Homes Levy Bill and Royalties and Cost of Living Relief bill, both revenue bills, the Member for South Brisbane disobeyed the order of the House. Therefore, element 1 is made out.

Element 2: Was the disobedience wilful?

58. As in Report No. 200, the committee agrees with McGee's position that standing orders are permanent orders of the House and therefore, the key question is whether the Member for South Brisbane's breach of SO 174 was 'wilful'.
59. In Report No. 200, that committee noted there is no relevant judicial definition of 'wilful', because any definition is dependent on the context specific use of the word and is not readily applicable to parliamentary law. Therefore, in that matter the committee turned to the Macquarie Dictionary definition of wilful, as 'willed, voluntary, intentional'.²⁷
60. The former ethics committee considered the element of wilfulness must be of a high threshold, categorically showing intent, 'otherwise each breach of a standing order could potentially also be a contempt under SO 266(22), thus nullifying the effect of the SO 266(22) as a stand-alone contempt'.²⁸
61. In considering that matter, the committee determined that a persistent breach of a standing order would be more likely to reach the threshold of 'wilful' required to enliven SO 266(22).²⁹
62. Furthermore, that committee, in determining if the Member for Everton's breach of SO 271 was 'wilful', noted that once the Speaker had ruled the question out of order, the Member for Everton did not persist, nor did he attempt to ask a similar question at any point after that ruling.
63. The committee also had regard to former ethics committee Report No. 118 which concerned a matter of privilege whereby the former Member for Burnett, Mr Rob Messenger MP, had taken insufficient care in tabling a document, relating to an alleged breach of the sub judice rule when tabling documents.

²⁵ CW Pitt, Speaker, Queensland Parliament, Record of Proceedings, 17 November 2021, p 3553.

²⁶ Record of Proceedings, 17 November 2021 pp 3553-3554,
https://documents.parliament.qld.gov.au/events/han/2021_11_17_WEEKLY.pdf.

²⁷ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, p 6.

²⁸ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, p 6.

²⁹ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, p 6.

64. In that report, the former ethics committee held that the former Member, in taking insufficient care in redacting information which allowed for the identification of a child subject to the *Child Protection Act 1999*, had acted carelessly and in breach of a duty to the House expressed in standing orders.³⁰
65. Important in that case is that no intention by the Member to breach the rules was found, simply that the Member had failed to comply with the duty owed by the Member established by the rules.³¹ That is, his lack of intent to breach the sub judice rule did not excuse the conduct from being a contempt of Parliament.
66. As to the Member for South Brisbane's intent, the committee wrote to the Member seeking a submission with respect to the allegation her conduct may constitute contempt in accordance with SO 266(22) and in response to a number of questions asked by the committee, relating to the Member's knowledge of the status of the Cost of Living Bill at its introduction, her intention in introducing it and her understanding of SO 174(1).
67. The Member submitted to the committee:
- at the time of its introduction, the Member had full knowledge that the Cost of Living Bill sought to raise revenue and appropriate funds; and she relied on prior proceedings in the House, including a Temporary Speaker's ruling 'which inferred that no determination about a bill's constitutionality could be made during a first reading speech'.
 - that she did not consider, either at the time or now, that seeking to introduce the bill was contrary to the order of the House, or to past Speaker's rulings because:
 - it is the Greens' position, informed by legal advice, that 'it is not correct to say that crossbenchers cannot make revenue proposals'; and
 - she considered the application of standing orders was such that, the introduction of a revenue bill without a message from the Governor could proceed through first reading, at which point the Speaker may make a ruling as to its validity.³²
68. With respect to her knowledge and understanding of 174(1), the Member submitted that she considered SO 174(1) would apply similarly: that is, it did not prohibit the introduction of appropriation bills without a message of recommendation from the Governor, but rather the introduction of such a bill would merely make it liable to be discharged from the notice paper following its introduction.³³

Consideration

69. The Member for South Brisbane considers she has not breached SO 174, in view of a Temporary Speaker's ruling from which she claims she inferred that no determination about a bill's constitutionality can be made until it has been introduced; her interpretation of SO 174; and the Greens' Party position on revenue proposals.
70. The committee notes that the Temporary Speaker advised that he was not in a position to rule on whether the Empty Homes Levy Bill was out of order at that moment – that is, he could not make a ruling on the point of order - because it had not yet been introduced.
71. The committee sought the Clerk's advice about whether the status of a Speaker's ruling applies to Temporary Speaker's statement on 13 October 2022 on which the Member for South Brisbane relies for her claim that she inferred from it that a revenue or appropriation Bill may be introduced without a message, and only ruled out order after its introduction. The Clerk advised the committee that this statement is not a ruling, but rather concerns a matter of order. The Temporary Speaker was simply telling the Member who raised the point of order, that until the bill had been introduced and the

³⁰ Report No. 118, *Matter of Privilege referred by the Speaker on 26 May 2011 relating to alleged insufficient care being taken by a Member when tabling documents and on 10 June 2011 relating to an alleged breach of the sub judice rule by a member when tabling documents and Matter of privilege referred by the Speaker on 18 August 2011 relating to an alleged contempt of impugning the Assembly's ethics processes and by prejudging an inquiry outcome impugning the Ethics Committee's processes and deliberations*, p 5, <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2011/5311T5743.pdf>.

³¹ Submission from the Clerk of the Parliament to the Ethics Committee on 1 May 2023, p 3.

³² Submission from the Member for South Brisbane to the Ethics Committee on 19 May 2023, pp 2-4.

³³ Submission from the Member for South Brisbane to the Ethics Committee on 19 May 2023, p 4.

Speaker (or Deputy Speakers) had an opportunity to consider the bill, it was premature for the point of order to be taken. Hence the Temporary Speaker's words, 'while the bill is still being introduced, it is not possible for that point of order to be considered.'³⁴

72. It is incorrect to characterise this statement as a 'ruling' let alone one from which a general principle can be drawn (ie that no determination about a bill's constitutionality will be made until a bill is finally introduced). It was not, in either word or effect, a ruling. Therefore, the committee does not accept the Member's interpretation of the Temporary Speaker's advice on 13 October 2022.
73. Equally, the committee does not accept the Member's interpretation of the rules associated with appropriation bills as reasonable grounds for the introduction of an appropriation bill unaccompanied by a message. SO 174 clearly places a positive duty on members as regards appropriation proposals:

No proposal (including a Bill or a motion) for an appropriation that falls within the meaning of s.68 of the Constitution of Queensland 2001 shall be introduced unless first recommended by a message of the Governor as required by that section.
74. The Member for South Brisbane was fully aware that the Cost of Living Bill was both a revenue bill and an appropriation bill at the time of its introduction. However, with respect to whether her conduct in breaching SO 174 satisfied the threshold of 'wilfulness', the committee considered whether she categorically showed intent.
75. As to the question of the Member's understanding of SO 174 prior to the introduction of the Cost of Living Bill, irrespective of her interpretation of the rules, or the Greens Party position, the House had made clear its will with respect to the introduction of private member's bills that seek to raise revenue and / or appropriate funds without a message of recommendation from the Governor (ie that such bills are out of order). Following the Speaker's ruling to this effect on 17 November 2021, the committee notes the Member for South Brisbane's motion of dissent against the ruling, which was the appropriate course of action to appeal the Speaker's decision.
76. A motion of dissent is essentially an appeal against a Speaker's ruling. In this instance, it was upheld. The House confirmed the Speaker's ruling, giving it status as a higher, more authoritative source of procedure, than an unchallenged Speaker's Ruling.³⁵ It is a reflection of the will of the House on that specific question.
77. While the committee acknowledges that the Member may hold a differing view as regards SO 174, and revenue bills more generally, the Member was informed of the House's position on these matters. It is the House that determines its rules, based upon long-standing principles of parliamentary law. The Member for South Brisbane was again reminded of her duty in respect of SO 174 and the financial imperative of the Crown by a Speaker's ruling on 26 October 2022, made subsequent to her second attempted introduction of a revenue bill.
78. The committee considers that, irrespective of the Member's interpretation of the rules of procedure regarding appropriation bills and revenue bills, there was a positive duty on the Member for South Brisbane, expressed by SO 174 and by Speaker's Rulings, when introducing the Cost of Living Bill. Further, the Member had been made aware of that duty on three occasions prior to her introduction of the Cost of Living Bill.
79. Therefore, it is the committee's view that the Member's conduct constitutes wilful disobedience, as she knowingly introduced firstly, in October 2022 the Empty Homes Bill which sought to raise revenue, having been made aware of the House's position on this in November and December 2021; and secondly, in November 2022 – a mere few weeks later, the Cost of Living Bill which sought to both raise revenue and to appropriate funds from consolidated revenue, unaccompanied by a message of recommendation, contrary to the two previous Speaker's rulings and the failed dissent motion and to her duties to the House as expressed in standing orders Element 2 is made out.

³⁴ Submission from the Clerk of the Parliament to the Ethics Committee on 15 August 2023, p 2.

³⁵ (See Speaker Pitt, 26/11/2022 ROP pp 3040- 3041); Submission from the Clerk of the Parliament to the Ethics Committee on 1 May 2023, p 2.

Element 3: Did the disobeying of the order amount to, or was it intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions?

80. The question before the committee was whether the Member for South Brisbane's wilful disobedience amounted to, or was intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions.

Consideration

81. The committee accepts it is inevitable that members will, from time to time, breach the rules of procedure and rules of debate contained in parliamentary law and practice. A member's contravention of the rules would never amount to a contempt, unless it amounts, or is intended or likely to amount to an improper interference with the free exercise by the Assembly or a committee of its authority or functions.³⁶

82. In respect of element 3, the committee again considered former ethics committee Report No. 118 whereby the committee held that a Member had committed a contempt by breaching duties to the House expressed in standing orders by failing to take the appropriate care in redacting the name of a child subject to the *Child Protection Act 1999*; and tabling a document that was sub judice.

83. In that matter, the former committee found the Member in contempt, despite no evidence of intention to breach the rules, simply because the Member had failed to comply with the duty owed by the Member established by the rules.

84. In this current matter:

- that the Member for South Brisbane acted on her own interpretation of standing rules and orders, and external legal advice provided to her party about the introduction of revenue bills by crossbenchers
- this was in spite of the House's position on private member's bills seeking to raise revenue and/or appropriation bills, and having been reminded of the duties expressed by SO 174(1) and s 68 of the Constitution by a subsequent Speaker's ruling prior to the introduction of the Cost of Living Bill
- the Member has admitted she was fully aware that the Cost of Living Bill was both a revenue and an appropriation bill at the time of its introduction.

85. The question then goes to whether or not the Member intended to breach a power, right or immunity of the House.

86. It is a Member's duty, in the interests of effective operation of the House, to behave in accordance with the expressed will of the House. It should not be considered the responsibility of others to police that behaviour. It appears to the committee that the Member is attempting to 'see what she can get away with'.

87. The committee considers that the Member knew that the Cost of Living Bill was both a revenue and an appropriation bill, and irrespective of her interpretation of the rules, she was aware of the House's will with respect to the financial imperative of the Crown and reminded of her duty with respect to SO 174(1) in a Speaker's ruling subsequent to her unsuccessful dissent motion.

88. The committee is satisfied that the Member for South Brisbane's conduct was intentional.

89. It is the committee's view that the Member for South Brisbane's conduct, in knowingly failing to observe her duties to the House as expressed in standing orders, was an intentional interference with the House's power to manage the passage of revenue and/or appropriation bills in accordance with the rules and in observance of the financial imperative of the Crown, and element 3 is made out.

³⁶ Submission from the Clerk of the Parliament to the Ethics Committee on 1 May 2023, pp 2-3.

Conclusion

90. The Speaker's Ruling, supported by the House, and SO 174, a permanent order of the House, placed a positive duty on the Member for South Brisbane to present a message of recommendation from the Governor prior to the introduction of the Cost of Living Bill. The Member had been made aware of this on more than one occasion. In the absence of a message, the Member breached her duties to the House.
91. By knowingly failing to observe her duties to the House in respect of the requirements for the introduction of private member's bills that seek to raise revenue and/or appropriate funds from consolidated revenue, the Member for South Brisbane has wilfully disobeyed an Order of the House, therefore obstructing the House in the free exercise of its authority and impeding its function, and accordingly her conduct satisfies the definition in s 37(2)(a) of the POQA.
92. On the matter of whether the Member for South Brisbane wilfully disobeyed an order of the House, the committee finds that the Member knowingly breached her duties as expressed in the Speaker's Ruling and in SO 174(1) and that this amounted to an intentional interference with the House's power to manage the passage of revenue and/or appropriation bills in accordance with the rules and in observance of the financial imperative of the Crown, and therefore has made a finding of contempt.
93. The committee notes the role of the Committee of the Legislative Assembly (CLA) in respect of Standing Orders. It may be timely that the CLA consider an amendment to Standing Orders to place beyond doubt the position of this Parliament, consistent with other Westminster parliaments, on the question of revenue bills.

Disrupting the orderly conduct of the House

94. The elements for the second way this example of contempt might be assessed can be extrapolated as:
 - Element 1: Was there a disruption to the orderly conduct of the House?
 - Element 2: If yes, did the disruption of the orderly conduct amount to, or was it intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions?

Element 1: Was there a disruption to the orderly conduct of the House?

95. The committee then considered whether the Member's conduct could amount to a disruption to the orderly conduct of the House.
96. 'Disrupt' is defined in the Macquarie Dictionary as 'to interrupt the continuity of', or 'to cause disorder'.³⁷
97. The Macquarie Dictionary defines 'orderly' in the following terms, 'characterised by or observant of order, rule, or discipline'; 'according to established order or rule'.³⁸
98. As set out above, the conduct in question concerns the Member for South Brisbane's introduction of private member's bills that seek to raise revenue following Speaker's rulings that such bills are out of order.
99. Each attempt to introduce the respective bills was done at the appropriate time allocated in the sessional orders; and, on each occasion, when the bills were ruled out of order, the Member for South Brisbane sat down and ceased speaking following the ruling.

Consideration

100. The question before the committee was whether the repeated introduction of private member's bills that the Member is aware seek to raise revenue, following Speaker's rulings that such bills are out of order, could amount to a disruption to the orderly conduct of the House.

³⁷ The Macquarie Library Pty Ltd, *Macquarie Dictionary 3rd Edition*, p 549.

³⁸ The Macquarie Library Pty Ltd, *Macquarie Dictionary 3rd Edition*, p 1348.

101. The committee considered on one hand that the Member for South Brisbane was exercising her right to freedom of speech in the House, noting the multiple objectives a Member may achieve in introducing a private member's bill.
102. On the other hand, while members are free to speak in the House without fear of retribution outside of the House, that freedom exists within the limits of the House's governance of itself. The repeated introduction of private member's bills that seek to raise revenue, following a number of Speaker's rulings that such bills are out of order, is conduct that amounts to a repeated pattern of disrespectful behaviour that is contrary to Speaker's rulings.
103. On this issue, the committee considered previous Speaker's rulings on matters where members engaged in a repeated pattern of conduct in circumstances where the House has expressed its clear will on particular questions.
104. For example, on 17 October 2018 the former Leader of the Opposition, the Member for Nanango, sought leave to move a general notice of motion, standing in her name, with respect to establishing a select ethics committee. The question was resolved in the negative and therefore leave was not granted.³⁹
105. Despite the House having made clear its will with respect to that question, on 1 November 2018 the then Leader of the Opposition again sought leave to move the same general business notice of motion and the question was again resolved in the negative.⁴⁰
106. The Speaker ruled immediately after, that following two unsuccessful attempts to obtain leave of the House to move the motion, any further attempt to move the motion would be ruled out of order, having enlivened the same question rule. In his ruling, the Speaker also noted that the Opposition has the opportunity each sitting week to put a motion on notice and debate said motion.⁴¹
107. While the subject of that ruling may differ to the rulings made in relation to the Member for South Brisbane's introduction of private member's bills, the committee considers it a general principle, irrespective of the business before the House, that a repeated pattern of conduct that is clearly against the will of the House, is disruptive to the orderly conduct of the House, as it is contrary to, or in defiance of, established rule or order.
108. The committee also considered as precedent former Ethics Committee Report No. 90, which concerned an allegation that the former Member for Nicklin repeatedly made statements which reflected on the Chair. While these matters differ in terms of the alleged contempts, both matters concern a repeated pattern of conduct that is contrary to the House's position on particular issues.⁴²
109. In that matter, the former Member for Nicklin made several statements in the House and in the media which amounted to reflections on the Chair, breaching SO 266(23) and for which he was found guilty of contempt. In its deliberations, the committee considered a number of factors that contributed to its recommendation of penalty, including the former Member's knowledge that to reflect on the Chair was a contempt and the repeated pattern of conduct.⁴³
110. The committee notes that unlike reflections on the Chair, the Member for South Brisbane's conduct in introducing a private member's bill that seeks to raise revenue and/or appropriate funds may not necessarily constitute contempt in itself. It is the knowing engagement in repeated conduct that goes against the will of the House, that is disruptive to the orderly conduct of the House.

³⁹ Record of Proceedings, 17 October 2018, p 2867,
https://documents.parliament.qld.gov.au/events/han/2018/2018_10_17_WEEKLY.PDF.

⁴⁰ Record of Proceedings, 1 November 2018, p 3265,
https://documents.parliament.qld.gov.au/events/han/2018/2018_11_01_WEEKLY.PDF.

⁴¹ Ibid.

⁴² Ethics Committee Report No. 90, *Matter of Privilege Referred by the Deputy Speaker on 28 February 2008 Relating to Alleged Reflections on the Speaker*, <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2008/5208T3662.pdf>.

⁴³ Ethics Committee Report No. 90, *Matter of Privilege Referred by the Deputy Speaker on 28 February 2008 Relating to Alleged Reflections on the Speaker*, pp 9-10.

111. The committee is of the view that the introduction of a second revenue bill after the original Speaker's ruling and subsequent dissent motion has resulted in a disruption to the orderly conduct of the House, contrary to the expressed will of the House, and therefore element 1 is made out.

Element 2: did the disruption of the orderly conduct amount to, or was it intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions?

112. The question before the committee was whether the disruption to the orderly conduct of the House by the Member for South Brisbane amounted to, or was intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions.
113. If the Member knew that the bills she was introducing were revenue bills, then a repeated attempt at introduction would be an intentional interference with the House's power to determine what is acceptable conduct in the House.

Consideration

114. The Member for South Brisbane advised the committee that in no way did she intend to commit a contempt of parliament by making a policy proposal via a private member's bill; but also affirmed that the Greens' position on the question of whether crossbenchers can make revenue proposals in private member's bills has been consistent.
115. The Member submitted that she was fully aware at the time of introduction that the Cost of Living Bill sought to raise revenue and appropriate funds. The submission is not explicit as to her knowledge of the first and second revenue bills at the time of their introduction. However, when discussing her reliance on the Temporary Speaker's advice on 13 October 2022 as a basis for the introduction of the Cost of Living Bill, it would appear the Member knew the Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill was a revenue bill when she says:
- ... I inferred the act of introducing the Empty Homes Levy Bill, which similarly sought to raise revenue with a levy on homeowners who leave homes empty during a housing crisis, was allowable.⁴⁴*
116. A Speaker is elected by the House to maintain the Standing Rules and Order of the House, and order in the House more generally. While a Speaker's Ruling is not in itself an 'order of the House', the committee notes that the motion of dissent moved by the Member for South Brisbane against the Speaker's ruling in question, was not successful. As discussed above, a motion of dissent is essentially an appeal against a Speaker's ruling and in this instance it was upheld, becoming a higher, more authoritative source of procedure.⁴⁵
117. The committee notes that it is a Member's duty to behave in accordance with the expressed will of the House.
118. The committee does not accept the Member's interpretation of the Temporary Speaker's advice on 13 October 2022, that he could not rule on a point of order, as a ruling; or her and the Greens Party position as to the rules of parliamentary procedure with respect to revenue bills, as reasonable grounds to introduce bills contrary to the expressed will of the House.
119. In the committee's view, the House has made its position on the financial imperative of the Crown clear through Speaker's Rulings that have withstood a dissent motion. The Member had been made aware of the House's will with respect to private member's bills that seek to raise revenue and/or appropriate funds from consolidated revenue on more than one occasion, and she knowingly proceeded to introduce a bill relying on her alternative interpretation of the rules.
120. In doing so, the Member for South Brisbane wastes the time of the House, and disrespects her colleagues who may, like the Member herself, wish to make use of the time allocated for private members' bills to represent their constituencies.
121. The committee considers the Member for South Brisbane's conduct in repeatedly introducing bills which seek to raise revenue for and/or appropriate funds from consolidated revenue, despite several

⁴⁴ Submission from the Member for South Brisbane to the Ethics Committee on 19 May 2023, p 3.

⁴⁵ (See Speaker Pitt, 26/11/2022 ROP pp 3040- 3041)

Speaker's Rulings on prior Bills that they were out of order, was provocative and disrespectful and amounted to a disruption of the orderly conduct of the House. Element 2 is made out.

122. The committee notes that there are many reasons a member may seek to introduce a bill. However, a member's right to freedom of speech in the House is to be exercised within the rules and orders for conduct agreed by the House.

Conclusion

123. On the matter of whether the Member for South Brisbane disrupted the orderly conduct of the House, the committee's view is that repeatedly introducing bills that the Member knew to be revenue bills or bills seeking to appropriate funds from consolidated revenue, after several Speaker's rulings on prior bills that they were out of order was provocative and disrespectful. This wastes the time of the House, and detracts from the opportunity available to other members to make contributions during the time allocated for the consideration of private members' bills.
124. By knowingly engaging in conduct contrary to Speaker's Rulings and the House's expressed will in respect of private member's bills that seek to raise revenue and/or appropriate funds from consolidated revenue, the Member for South Brisbane disrupts the orderly conduct of the House, therefore obstructing the House in the free exercise of its authority and impeding its function, and accordingly her conduct satisfies the definition in s 37(2)(a) of the POQA.
125. There are more effective and less disrespectful ways for the Member to place on record in the House or express in the public domain, her policy proposals or views on policy, or the views of her constituents. These include, for example, contributions to debates, using the time allocated in sessional orders for Private Members' Statements or Private Members' Motions, issuing media releases and holding press conferences.
126. On the issue of the Member's conduct, as at paragraph 93, to place beyond doubt the position of this Parliament, consistent with other Westminster parliaments, on the question of revenue bills, it may be timely for the CLA consider an amendment to Standing Orders.

CONCLUSION

127. Based on the information before the committee, the committee finds that all elements necessary to establish a contempt of wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee have been met in respect of both possible ways that example of contempt could be satisfied. Therefore, the Member for South Brisbane's conduct constitutes a contempt of Parliament.

PENALTY

128. SO 270(5) provides that a committee must with its report recommend the action that should be taken.
129. In accordance with the principles of procedural fairness, on 29 August 2023, the committee wrote to the Member for South Brisbane to advise of its preliminary finding of contempt and to seek a submission on possible penalty.
130. In earlier correspondence to the committee, the Member had argued that appropriate sanctions have already been applied by the Speaker in denying the introduction of the Cost of Living Bill (see paragraph 42). The committee observes that a procedural determination about a Bill, is not a sanction against a Member.
131. On 11 September 2023, the Member for South Brisbane submitted that the committee should reconsider its preliminary finding of contempt and conclude that her actions do not amount to contempt. She submits that should the committee not reconsider its preliminary finding, that the committee should recommend that no further action be taken.⁴⁶
132. The Member reiterated that she considers it her job as a Member to put forward ideas that would meaningfully improve the lives of her constituents, and Queenslanders, and that private member's bills are one mechanism by which this is achieved. The Member for South Brisbane also remains of the

⁴⁶ Submission from the Member for South Brisbane to the Ethics Committee on 11 September 2023, p 1.

view she has not disobeyed an order of the House but proceeded on the basis of prior proceedings of the House.⁴⁷

133. The Member considers that any penalty or action against her would have a ‘chilling effect’ on crossbench members’ engagement with parliamentary and legislative processes.⁴⁸

Precedents for penalties for wilfully disobeying an order of the House

134. The committee took into account former ethics committee Report No. 200 which concerned whether the Member for Everton had wilfully disobeyed an order of the House when allegedly breaching SO 271, which restricts debate on matters before the Ethics Committee.

135. The committee notes that the matter of privilege set out in Report No. 200 is differentiated from the current matter as the circumstances did not give rise to consideration of the second avenue of SO 266(22): disrupting the orderly conduct of the House.

136. In that matter:

- the Member for Everton asked a question during question time which referred to a matter before a predecessor ethics committee. The Member for Everton submitted that his question was merely procedural, and he was of the belief that SO 271 only prohibited substantive debate on the matter.
- the committee determined that a persistent breach of a standing order would be more likely to reach the threshold of ‘wilful’ required to enliven SO 266(22).
- the Member for Everton offered to apologise if his interpretation of SO 271 differed to that of the Speaker and/or the committee.
- despite the Member’s mistaken belief, the committee found the Member in contempt and recommended that the Member for Everton take it upon himself as soon as practicable to apologise to the House, on the floor of the House, for his actions in breaching SO 271.⁴⁹

137. In this matter, the committee is satisfied:

- that irrespective of her different interpretation of the rules, the House made clear to the Member for South Brisbane its position on the financial imperative of the Crown through Speaker’s Rulings that have withstood a dissent motion
- the Member’s conduct was intentional, and that in wilfully disobeying an order of the House and disrupting the orderly conduct of the House, her conduct amounts to a more egregious contempt than that contemplated by the Ethics Committee in Report No. 200.

138. On this basis, the committee took the view that the Member for South Brisbane should take it upon herself at the earliest opportunity to apologise to the House and the Speaker, on the floor of the House.

139. The committee recommends that if the House considers the apology tendered is adequate, that the House accept the Member for South Brisbane’s apology as the appropriate and final penalty. However, if the Member fails to apologise, the committee recommends the House suspend the Member for South Brisbane from the precincts of the House for one sitting day from the date the committee’s recommendation is considered by the House.

COMMITTEE COMMENT

140. The effective functioning of parliament depends on members of parliament adhering to the rules of procedure which have been developed over time to reflect principles of parliamentary democracy.

⁴⁷ Submission from the Member for South Brisbane to the Ethics Committee on 11 September 2023, pp 1-2.

⁴⁸ Submission from the Member for South Brisbane to the Ethics Committee on 11 September 2023, p 2.

⁴⁹ Ethics Committee Report No. 200, *Matter of privilege referred by the Speaker on 12 February 2019 relating to alleged contempt by a member*, pp 6-7.

141. The Standing Orders provide that members are to conduct themselves in an orderly and appropriate manner and to comply with any lawful direction by the Speaker or the House. This is reiterated in the Members Code of Ethical Standards adopted by the House.
142. It would seem to go without saying that adherence to the directions of the Speaker and obeying the orders of the House noting and using the established channels for dissent, are duties of members.

RECOMMENDATIONS

143. The committee recommends:

- (1) a finding of contempt be made against the Member for South Brisbane for wilfully disobeying an order of the House and disrupting the orderly conduct of the business of the House.
- (2) the Member for South Brisbane should take it upon herself as soon as practicable to apologise unequivocally to the House and the Speaker, on the floor of the House, for her conduct.
- (3) that if the Member for South Brisbane fails to apologise, or makes an inadequate apology, the House suspend the Member for South Brisbane from the precincts of the House for one sitting day from the date the committee's recommendation is considered by the House.
- (4) the Committee of the Legislative Assembly consider an amendment to Standing Orders to place beyond doubt the position of this Parliament, consistent with other Westminster parliaments, on the question of revenue bills.



Ms Jennifer Howard MP

Chair

October 2023

ETHICS COMMITTEE PROCEEDINGS

Standing Order 211B(3) provides that when the Ethics Committee makes its final report to the House on a matter, the committee shall at the same time, table in the House:

- (a) The minutes of its proceedings relevant to the matter; and
- (b) Any submissions received or evidence taken in respect of the matter (including transcripts of hearings) unless the committee resolves that some or all of its proceedings remain confidential.

The relevant minutes and evidence in respect of this matter are attached to this report.

EXTRACT OF MINUTES –

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022 RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE SPEAKER



Ethics Committee

Meeting No. 35
Friday, 13 January 2023, 9.30am
Teleconference

- Present**
- Ms Jennifer Howard MP, Chair
 - Mr Andrew Powell MP, Deputy Chair
 - Mr Dan Purdie MP
 - Mr Linus Power MP
 - Ms Kim Richards MP
 - Mr Ray Stevens MP
- In attendance**
- Mr Michael Ries, Acting Clerk
 - Ms Rebecca Meehan, Legal and Compliance Officer

1. Apologies and welcome

Mr Ries acted as Committee Secretary while Ms Watson is on leave.

2. Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 1 December 2022

Discussion ensued.

Resolved

That the committee write to the Member for South Brisbane in the terms of the letter provided, seeking further information on the allegations under SO 270(1)(b) to inform a decision as to whether to proceed to an investigation.

Moved: Ms Richards

EXTRACT OF MINUTES –

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022
RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH
BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE
SPEAKER**



Ethics Committee

Meeting No. 36

Wednesday, 22 February 2023, 1.18pm

Committee Room 3 and Room L6.04, Level 6, Parliamentary Annexe

Present

- Ms Jennifer Howard MP, Chair
- Mr Andrew Powell MP, Deputy Chair
- Mr Dan Purdie MP
- Mr Linus Power MP
- Ms Kim Richards MP (from 1.19pm)
- Mr Ray Stevens MP

In attendance

- Ms Bernice Watson, Committee Secretary
- Dr Amanda Beem, Legal and Compliance Officer

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 1 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee invites the Member for South Brisbane to meet with the committee.

Moved: Mr Power

EXTRACT OF MINUTES –

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022
RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH
BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE
SPEAKER**



Ethics Committee

Meeting No. 38

Tuesday, 7 March 2023, 1.31pm

Teleconference and L6.04, Level 6, Parliamentary Annexe

Present

Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair
Mr Dan Purdie MP
Mr Linus Power MP
Ms Kim Richards MP
Mr Ray Stevens MP

In attendance

Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

**Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on
12 December 2022 (South Brisbane)**

Discussion ensued.

Resolved

That the committee writes to the Member for South Brisbane in the terms of the draft letter provided.

Moved: Ms Richards MP

EXTRACT OF MINUTES –

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022 RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE SPEAKER



Ethics Committee

Meeting No. 41

Wednesday, 29 March 2023, 1.15pm
Committee Room 3, Level 6, Parliamentary Annexe

Present	Ms Jennifer Howard MP, Chair Mr Andrew Powell MP, Deputy Chair Mr Dan Purdie MP Mr Linus Power MP Ms Kim Richards MP Mr Ray Stevens MP
In attendance	Ms Bernice Watson, Committee Secretary
Via teleconference	Dr Amanda Beem, Legal and Compliance Officer

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee instructs the secretariat to draft a working draft report, as discussed, for the committee's consideration.

Moved: Mr Powell

EXTRACT OF MINUTES –

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022
RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH
BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE
SPEAKER**



Ethics Committee

Meeting No. 43

Wednesday, 19 April 2023, 1.15pm
Committee Room 3, Level 6, Parliamentary Annexe

Present

- Ms Jennifer Howard MP, Chair
- Mr Andrew Powell MP, Deputy Chair
- Mr Linus Power MP
- Mr Dan Purdie MP (from 1.18pm)
- Ms Kim Richards MP
- Mr Ray Stevens MP

In attendance

- Ms Bernice Watson, Committee Secretary
- Dr Amanda Beem, Legal and Compliance Officer

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee write to the Clerk seeking his opinion in relation to issues raised during its deliberation on the matter; and requests the secretariat prepare a 'working draft' document in the terms discussed at today's meeting, incorporating the Clerk's advice.

Moved: Mr Power

EXTRACT OF MINUTES –

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022
RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH
BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE
SPEAKER**



Ethics Committee

Meeting No. 44

Thursday, 4 May 2023, 12.00pm

Teleconference & Committee Room 3, Level 6, Parliamentary Annexe

Via teleconference Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair (until 12.28pm)
Mr Linus Power MP
Mr Dan Purdie MP
Ms Kim Richards MP
Mr Ray Stevens MP (from 12.02pm)

In attendance Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee proceeds to investigate an allegation of contempt against the Member for South Brisbane, and writes to the Member in the terms of the draft letter provided.

Moved: Mr Power

EXTRACT OF MINUTES –

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022 RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE SPEAKER



Ethics Committee

Meeting No. 47

Wednesday, 14 June 2023, 1.17pm

Committee Room 3, Level 6, Parliamentary Annexe

Present

Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair
Mr Linus Power MP
Mr Dan Purdie MP
Ms Kim Richards MP

In attendance

Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

Apologies and welcome

Mr Stevens is an apology.

Declarations of conflicts of interest

Ms Watson declared that as Clerk at the Table she provided advice to the Temporary Speaker on 13 October 2022 in respect of a point of order, the taking of which and subsequent advice given by the Temporary Speaker, is raised in a submission with respect to Inquiry 8.

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee write to the Clerk seeking advice with respect to the nature of the Temporary Speaker's advice in response to a point of order on 13 October 2022.

Moved: Ms Richards

Resolved

That the secretariat review the Ethics Committee precedents registers to further inform the committee in this matter.

Moved: Mr Power

EXTRACT OF MINUTES –

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022 RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE SPEAKER



Ethics Committee

Meeting No. 49

Wednesday, 23 August 2023, 1.15pm

Committee Room 3, Level 6, Parliamentary Annexe

Present

Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair
Mr Dan Purdie MP
Ms Kim Richards MP
Mr Ray Stevens MP

In attendance

Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

Apologies and welcome

Mr Power is an apology.

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee make a preliminary finding of contempt against the Member for South Brisbane for wilfully disobeying an order of the House and disrupting the orderly conduct of the business of the House or a committee.

Moved: Mr Powell

Resolved

That the committee:

- write to the Member for South Brisbane seeking a submission in relation to penalty, and
- request the secretariat prepare a draft report to the House for the committee's consideration.

Moved: Ms Richards

EXTRACT OF MINUTES –

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022 RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE SPEAKER



Ethics Committee

Meeting No. 50

Wednesday, 13 September 2023, 1.13pm
Committee Room 3, Level 6, Parliamentary Annexe

Present

Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair
Mr Dan Purdie MP
Mr Linus Power MP
Ms Kim Richards MP
Mr Ray Stevens MP

In attendance

Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

Declarations of conflicts of interest

Ms Watson again declared that as Clerk at the Table she provided advice to the Temporary Speaker on 13 October 2022 in respect of a point of order, the taking of which and subsequent advice given by the Temporary Speaker, is raised in a submission with respect to Inquiry 8.

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

The committee noted that the Chair's draft report will be provided for consideration at the committee's next meeting.

EXTRACT OF MINUTES –

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 1 DECEMBER 2022
RELATING TO AN ALLEGATION AGAINST THE MEMBER FOR SOUTH
BRISBANE OF WILFULLY OR RECKLESSLY DISRESPECTING RULINGS OF THE
SPEAKER**



Ethics Committee

Meeting No. 51

Wednesday, 11 October 2023, 1.17pm
Committee Room 3, Level 6, Parliamentary Annexe

Present

Ms Jennifer Howard MP, Chair
Mr Andrew Powell MP, Deputy Chair
Mr Dan Purdie MP
Mr Linus Power MP
Ms Kim Richards MP
Mr Ray Stevens MP

In attendance

Ms Bernice Watson, Committee Secretary
Dr Amanda Beem, Legal and Compliance Officer

Inquiry 8 – Alleged wilful or reckless disrespect for rulings of the Speaker referred to the committee on 12 December 2022 (South Brisbane)

Discussion ensued.

Resolved

That the committee adopts the Chair's draft report as a report of the committee and authorises it for tabling in the House.

Moved: Ms Richards

Extracts certified correct October 2023

A handwritten signature in blue ink that reads "J Howard".

Jennifer Howard MP
Chair



Our ref: your ref: 221212-OUT-Ethics Committee (South Brisbane)

12 December 2022

Ms Jen Howard MP
Chair of the Ethics Committee
Parliament House
George Street
BRISBANE QLD 4000

By E-mail: ethics@parliament.qld.gov.au

Dear Jen

I refer to my ruling of 1 December 2022 which is enclosed.

On 17 November 2021 I ruled the private members' bill introduced by the Member for South Brisbane, the *Big Bank Levy (COVID-19 Health Response) Bill 2021*, out of order.

On 26 October 2022 I ruled private members' bill introduced by the same member, the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022*, out of order.

The basis of the aforementioned rulings was that the said bills sought to impose revenue and breached the fundamental constitutional convention of the financial imperative of the Crown, and thus were out of order.

The first ruling was upheld by the House after a dissent motion on 1 December 2021 moved by the Member for South Brisbane. The affirmative decision by the House to support a Speaker's Ruling is a higher form of precedent than the initial ruling by the Speaker.

On 30 November 2022 the Member sought to introduce the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022*.

This Bill was foreshadowed by the following article in the Courier Mail;
<https://www.couriermail.com.au/news/queensland/qld-politics/greens-500-gas-gift-for-christmas/news-story/141be89d3e5ba0a97fe04969d255171e>

I ruled this bill out of order.

This bill was not only a revenue bill but also an appropriation bill. Consequently the bill was not only contrary to the previous aforementioned rulings about revenue bills but also the clear requirements of *section 68 of the Constitution of Queensland Act 2001* and Standing Orders 174 (1) and 175 (1).

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George St Brisbane Queensland 4000 Australia

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Given the closely related nature of revenue and appropriation bills, and the fundamental constitutional convention of the financial imperative of the Crown, I submit the introduction of bills on 26 October 2022 and 30 November 2022 in defiance of previous rulings, Standing Orders and the *Constitution of Queensland Act 2001* constitute Contempt of the House.

I consider that these actions arguably fall within the following examples of contempt set out in Standing Order 266;

- (1) breaching or interfering with any of the powers, rights and immunities of the House;
- (11) misconducting oneself in the presence of the House or a committee;
- (22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee;
- (24) contravening the requirements and orders imposed by operation of the Parliament of Queensland Act (*see also Examples 7 and 8 s.37 Parliament of Queensland Act and s.58 Criminal Code*);

In Ethics Committee Report No. 118 the committee discussed the obligations and duties of members to abide by rules of the assembly and how members may be in contempt by wilfully or recklessly breaching the assembly's rules.

"103. The term 'contempt of parliament' may include any offence to the dignity of the House or interference with its processes where no established privilege has previously existed. As detailed in Erskine May's Parliamentary Practice:

Each House also claims the right to punish as contempts actions which, while not breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its Members or its officers.

104. Accordingly, a contempt may be committed if it amounts to an act or an omission that offends the authority or dignity of the House or indeed a breach of a duty legitimately imposed by the House upon its Members."

Pg 14-15, Ethics Committee Report No. 118 – Matter of Privilege referred by the Speaker on 26 May 2011 relating to alleged insufficient care being taken by a Member when tabling documents and on 10 June 2011 relating to an alleged breach of the sub judice rule by a member when tabling documents, and Matter of privilege referred by the Speaker on 18 August 2011 relating to an alleged contempt of impugning the Assembly's ethics processes and by prejudging an inquiry outcome impugning the Ethics Committee's processes and deliberations

Accordingly, under Standing Order 268 (2), I formally refer the Member for South Brisbane to the Ethics Committee to consider whether the Member has committed a Contempt of the House.

Yours sincerely



HON CURTIS PITT MP
Speaker of the Legislative Assembly

Enc.



30 January 2023

Dear Ethics Committee,

Thank you for your letter dated 13 January 2023, following a referral from the Speaker of the Queensland Legislative Assembly dated 12 December 2022. I thank the Committee for the opportunity to provide additional information.

I note that the Speaker's referral relates to an allegation that I wilfully or recklessly disrespected the rulings of the Speaker, via the introduction of two private member's bills in October and November 2022. It alleges that in doing so, I have committed contempt of parliament.

The letter from the Speaker states, "I submit the introduction of bills on 26 October 2022 and 30 November 2022 in defiance of previous rulings, Standing Orders and the Constitution of Queensland Act 2001 constitute Contempt of the House."

The Speaker also states in this letter that my actions "fall within the following examples of contempt set out in Standing Order 266:

- (1) breaching or interfering with any of the powers, rights and immunities of the House;
- (11) misconducting oneself in the presence of the House or a committee;
- (22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee;

- (24) contravening the requirements and orders imposed by operation of the Parliament of Queensland Act (see also Examples 7 and 8 s.37 Parliament of Queensland Act and s.58 Criminal Code)."

This referral effectively relates to three private members bills I have introduced to parliament:

- *Big Bank Levy (COVID-19 Health Response) Bill 2021*, tabled on 27 October 2021. The purpose of this Bill was to enact a 0.05% levy on the five biggest banks in Queensland, to fund the health system to deal with the looming COVID-19 crisis.
- *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022*, tabled on 12 October 2022. The purpose of this Bill was to provide an incentive for landowners to put empty residential housing on the housing market, via an empty homes tax.
- *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022*. I rose to introduce this Bill on 30 November 2022 but did not have the opportunity to give a full introductory speech or move its first reading. The purpose of this Bill was to fund a \$500 cost-of-living-relief payment for every Queenslanders, by tripling gas royalties for one year.

I wish to assure the Ethics Committee that in no way did I intend to commit contempt of parliament by making a policy proposal via a private member's bill. Further context about my actions in introducing the aforementioned private member's bills is as follows.

Appeal to Speaker's ruling in 2021

The Greens' position on the question of whether crossbenchers can make revenue proposals in private member's bills has been consistent. When the Speaker ruled that the *Big Bank Levy (COVID-19 Health Response) Bill 2021* was out of order, my colleague the member for Maiwar Michael Berkman and I took the following steps:

- We shared our legal advice from Queensland constitutional experts directly with the government. This included advice from legal experts including those involved in the

very drafting of the Queensland *Constitution Act 2001* that it is not correct to say that crossbenchers cannot make revenue proposals.

- I lodged a motion of dissent from the Speaker's ruling - recognised as the only way such dissent can be expressed.
- When the motion came up for debate, we tabled written advice from the Honourable Alan Wilson QC, Professor Gerard Carney and Professor Graeme Orr to support our position.

Deputy Speaker's ruling in relation to the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022 (the Empty Homes Levy Bill)*

On 13 October 2022, I began my introductory speech for the Empty Homes Levy bill. I finished it on 26 October 2022.

On 13 October, at the outset of my speech a government member raised a point of order, alleging that an 'appropriation bill [sic] required a message from the governor.'

The Deputy Speaker sought advice, and advised that 'while the bill is still being introduced, it is not possible for that point of order to be considered. That is the advice that I have been provided with. Your point of order is noted, but the member for South Brisbane has the call as she is still introducing the bill to the parliament.' Please refer to page 2718 of the [Hansard](#) for details.

Accordingly, at the time of introducing the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022*, I was following a Speaker's ruling which said that no determination about my bill's constitutionality could be made while I was on my feet. Instead, the Speaker made a ruling during my speech that my bill could not be introduced.

The *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022* was never properly introduced

As the letter from the Speaker dated 12 December 2022 notes, I rose to introduce the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022* (Cost of Living Bill) on 30 November 2022.

Despite the previous Speaker's ruling that no determination about a bill's constitutionality would be made while I was introducing my speech, in this case I did not get the chance to give my introductory speech. The Speaker intervened to require me to sit down at the beginning of my speech. Accordingly, the bill's first reading was not moved.

If the Cost of Living Bill contravened previous rulings of the House, and section 68 of the *Constitution of Queensland Act 2001* and Standing Orders 174(1) and 175(1) as alleged in the referral, I submit that appropriate sanctions have already been applied, via its introduction being denied.

The decision of the Committee

As you state in your letter, it is up to the Committee to decide whether to investigate the allegations against me, or make any other determinations concerning the matters.

Accordingly, I am providing information to assist with this decision. This letter is not intended to replace legal submissions, the right to a fair hearing, or other rights I am entitled to under the relevant standing orders and which I reserve fully.

You have asked me to provide information addressing the allegations made by the Speaker that I potentially breached Standing Order 266(1), (11), (22) and (24), and to comment on Ethics Committee Report No. 118 in relation to offending the authority or dignity of the House.

The behaviour in question is my attempting to introduce two private member's bills in October and November of 2022. For me, as a crossbencher elected in a general election, on a platform of transformative change to support everyday Queenslanders, it is incumbent on me - as with any other member representing their communities - to put forward ideas and policy proposals that would support my community.

In relation to Ethics Committee Report No. 118, citing the principle that contempt may be committed via an act or omission that offends the authority or dignity of the House, the facts in that case and this case could not be more starkly different. In that case, a crossbencher carelessly tabled documents identifying a child or children, in clear breach of Standing Order 35, and breached the sub judice rule which was spelt out in Standing Order 233. In relation to his comments in the Bundaberg News Mail, the Ethics Committee found that Mr Messenger was not intending to reflect on the Speaker, the Ethics Committee or its processes. In addition, at no point did I obstruct or impede the performance of the House - indeed, the development and scrutiny of private members bills and other forms of policy proposals is a core function of the House, and a key responsibility for all members. If the Committee believes there is any commonality between the case in Ethics Committee Report No. 118 and the matter you have contacted me about, please provide further particulars in the event that you decide to investigate this matter.

Regarding Standing Order 266(1), (11), (22) and (24), these are not relevant to the facts outlined above. Respectively, these provide examples of contempt which include 'breaching or interfering with any of the powers, rights and immunities of the House', 'misconducting oneself in the presence of the House or a committee', 'wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee', or 'contravening the requirements and orders imposed by the operation of the *Parliament of Queensland Act*'.

At no point did I commit a contempt of parliament. In a system governed by precedent, the rules are always evolving. It is up to you to decide whether to investigate claims of contempt of parliament for trying to introduce a private member's bill.

I look forward to your advice as to whether you will investigate this matter. Please feel free to contact me to discuss any of these issues further.

Kind regards,

A handwritten signature in black ink, appearing to read 'Amy MacMahon', written in a cursive style.

Amy MacMahon

Member for South Brisbane



Amy MacMahon MP
Member for South Brisbane



21 March 2023

Ms Jennifer Howard MP
Chair, Ethics Committee
Parliament House
George Street
BRISBANE QLD 4000
Via email: ethics@parliament.qld.gov.au

Dear Ms Howard,

Thank you for your letter dated 7 March 2022, regarding allegations raised by Mr Speaker in his referral to the committee on 12 December 2022.

I note you have requested information as to whether, prior to the introduction of the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022*, I sought advice about the introduction of a private member's bill that seeks to impose revenue, for example from Parliamentary Service staff or the Office of the Queensland Parliamentary Counsel (OQPC).

Advice from the Office of the Queensland Parliamentary Counsel

My office sent drafting instructions for this bill on 17 November 2022.

Inderjeet Sidhu of the OQPC phoned my office on 18 November seeking confirmation as to whether I was aware this bill may be held out of order. A staff member of mine got back to the OQPC and left a voicemail to confirm that this was the case.

This exchange is summarised in an email thread between my office and the OQPC. A copy of this email exchange is **attached**.

Based on verbal advice from the Clerk during 2021 that the OQPC was not an appropriate arbiter of whether parliamentary interventions such as amendments in consideration in detail or private member's bills were compliant with parliamentary standing or sessional orders, I proceeded on the basis that the advice offered by the OQPC was a guide only.

Advice from Parliamentary Service staff

Once the bill was drafted, my staff emailed the Table Office at 1.36pm on Tuesday 29 November to advise it would soon be in receipt of the bill from the OQPC, and to provide the Explanatory Notes and Statement of Compatibility with Human Rights for the bill. The Explanatory Notes proactively addressed the issue of revenue bills.

We received a response from the Table Office at 4.58pm to confirm arrangements for introduction of the bill. No advice was offered in relation to the bill itself. However, we were surprised at such a long time before receiving this response. Usually, we would receive a response about a private member's bill within the hour. A copy of this email exchange is **attached**.

Advice in relation to previous bills

During my time in parliament, I have received detailed advice in relation to the general question of whether a crossbencher can introduce a revenue bill to Queensland parliament.

On 1 December 2021 in Queensland Parliament, I tabled a letter from the Hon Alan Wilson QC and Professor Gerard Carney and a letter from Professor Graeme Orr.

The former, both legal experts, explained that 'in our opinion there is a substantial argument that [sections]. 65 and 68 of the *Constitution of Queensland 2001*, on their proper reading, allow Parliament to consider nongovernment taxation Bills. That reading is informed by a consideration of UK and Australian Commonwealth, and Queensland, constitutional law and convention and parliamentary practice (including the terms of the Queensland Constitution Act 1867).'

Professor Graeme Orr's letter also supported this view.

A copy is **attached**. You will note this document outlines the legal basis for crossbenchers introducing revenue bills to Queensland parliament.

Speaker's ruling on 13 October 2022

When I rose to introduce the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill* on 13 October 2022, the Speaker stated:

'Member for Capalaba, I have sought advice about your point of order. At this point in time, while the bill is still being introduced, it is not possible for that point of order to be considered. That is the advice that I have been provided with. Your point of order is noted, but the member for South Brisbane has the call as she is still introducing the bill to the parliament.'

I inferred from this statement that I was able to introduce these bills. I did not think I could commit contempt of parliament by making a policy proposal, which is what a private member's bill is.

I hope that this information will be of assistance. Please feel free to contact me if there is any other information I can provide.

Kind regards,



Amy MacMahon

Member for South Brisbane

From: [Inderjeet Sidhu](#)
To: [Clare Quinn](#)
Subject: RE: INSTRUCTIONS RECEIVED—Drafting instructions - private member's bill
Date: Tuesday, 22 November 2022 9:38:05 AM
Attachments: [image001.png](#)
[image002.png](#)
[image006.png](#)

Thanks Clare.

I spoke with Chris and he got Greg to call me with the answers. Greg did this via a voicemail.

That approach sounds good to me.

Regards,
Inderjeet.

Inderjeet Sidhu

A/Deputy Parliamentary Counsel

Office of the Queensland Parliamentary Counsel

W <https://www.legislation.qld.gov.au>

Level 17, 111 George Street, Brisbane City QLD 4000

PO Box 15185, City East, QLD 4002

Work days: Monday to Thursday

At other times please contact Sandra Lawson on 300 39661 for urgent matters.



From: Clare Quinn [REDACTED]
Sent: Tuesday, 22 November 2022 9:10 AM
To: Inderjeet Sidhu [REDACTED]
Subject: RE: INSTRUCTIONS RECEIVED—Drafting instructions - private member's bill

Good morning Inderjeet

Thanks so much for this. I wasn't in the office on Friday, sorry – was it Amy herself you spoke to?

Firstly, that sounds great if you can amend the Petroleum and Gas (Production and Safety) Act for the royalties.

Secondly, we would also be very happy if the same Act could be amended for the payment. We wanted to leave the drafting of those provisions (including which act would be amended) up to the OQPC.

Obviously, as we would like to talk about the payment being funded by the royalties increase in a political sense, that's very useful (if not essential) that they are linked in such a way in the bill. Amending the same act works well for us.

Kind regards

Clare Quinn

Parliament & Policy Advisor

For Amy MacMahon, Greens MP for South Brisbane

E: south.brisbane@parliament.qld.gov.au | **P:** (07) 3724 9100 | **W:** www.amymacmahon.com

South Brisbane Electorate Office: 1/90 Vulture Street, West End, 4101

Office opening hours: Monday–Friday, 9am–4.30pm

We acknowledge the Aboriginal and Torres Strait Islander owners of the lands on which we work, and pay our respects to elders, past and present.

From: Inderjeet Sidhu [REDACTED]
Sent: Monday, 21 November 2022 9:13 AM
To: South Brisbane Electorate Office <South.Brisbane@parliament.qld.gov.au>
Cc: Clare Quinn [REDACTED]
Subject: FW: INSTRUCTIONS RECEIVED—Drafting instructions - private member's bill

Good morning

I refer to the drafting instructions sent to OQPC on 17 November. I understand from discussion with the PM's office on 18 November that the PM is aware that the Bill is likely to be held out of order on the grounds that it is a revenue bill and provides for the appropriation of monies from the consolidated revenue and that the PM would like to introduce a Bill nevertheless.

Before starting to draft the Bill, we wanted to confirm the legislation that is to be amended.

The first initiative to raise gas royalties would be appropriately implemented by amendments of the Petroleum and Gas (Production and Safety) Act 2004.

Is the second initiative to make a one-off payment also to be implemented by amending the Petroleum and Gas (Production and Safety) Act 2004? This would be appropriate if, for example, the one-off payment is made for relieving cost of living increases attributed to the rising cost of petroleum and gas. Could you please confirm whether the PM is happy to proceed on this basis? Alternatively, if the PM sees the one-off as being linked to a

different item of legislation, please confirm the legislation that is to be amended.

Regards,
Inderjeet.

Inderjeet Sidhu

A/Deputy Parliamentary Counsel

Office of the Queensland Parliamentary Counsel

W <https://www.legislation.qld.gov.au>

Level 17, 111 George Street, Brisbane City QLD 4000

PO Box 15185, City East, QLD 4002

Work days: Monday to Thursday

At other times please contact Sandra Lawson on 300 39661 for urgent matters.



From: South Brisbane Electorate Office <South.Brisbane@parliament.qld.gov.au>

Sent: Thursday, 17 November 2022 4:38 PM

To: Parliamentary Counsel <Parliamentary.Counsel@premiers.qld.gov.au>

Subject: Drafting instructions - private member's bill

Good afternoon

Amy is seeking for the drafting of a private member's bill, for introduction on Wednesday 30 November 2022, which:

1. Raises gas royalties for the period from 1 January 2023 to 31 December 2023, as follows:
 - a. For domestic gas over \$8 per gigajoule: triple the royalty rate from 10% to 30%.
 - b. For supply gas over \$8 per gigajoule: triple the royalty rate from 12.5% to 37.5%.
 - c. For project gas over \$9 per gigajoule:
 - i. Up to \$14 per gigajoule: triple the royalty rate from 9% to 27%.
 - ii. Over \$14 per gigajoule: triple the royalty rate from 12.5% to 37.5%.
2. Commits the government to making a one-off cost-of-living payment to all Queenslanders aged 18 and above of \$500 each, paid by 14 December 2022.

Would you be able to provide a draft copy of this bill by next Wednesday 23 November 2022?

Many thanks

Clare Quinn

Parliament & Policy Advisor
For Amy MacMahon, Greens MP for South Brisbane

E: [REDACTED] | **P:** (07) 3724 9100 | **W:** www.amymacmahon.com

South Brisbane Electorate Office: 1/90 Vulture Street, West End, 4101

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From: [Queensland Parliament Table Office](#)
To: [South Brisbane Electorate Office](#)
Cc: [Amy MacMahon](#)
Subject: RE: Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022
Date: Tuesday, 29 November 2022 4:58:01 PM

Hi Clare,

We have been supplied with Amy's bill from OQPC.

According to the administrative arrangements and Schedule 6 of the Standing Orders, the bill will be referred to the Economics and Governance Committee.

The time set aside for the introduction of private members' bills according to the temporary sessional orders adopted for the final sitting week is 12.30pm to 1.00pm Wednesday, 30 November.

A copy of the run sheet, bill, ex notes and SoC will be given to Amy in the chamber prior to this time.

If Amy would like to be taken through the run sheet tomorrow before the introduction of her private member's bill, just let us know.

Regards,

Leah Ilott
Acting First Clerk Assistant (Procedure)
Chamber and Education Services

QUEENSLAND PARLIAMENTARY SERVICE

Parliament House

Cnr George and Alice Streets Brisbane Qld 4000



From: South Brisbane Electorate Office <South.Brisbane@parliament.qld.gov.au>
Sent: Tuesday, 29 November 2022 1:36 PM
To: Queensland Parliament Table Office <TableOffice@parliament.qld.gov.au>
Subject: Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022

Good afternoon Table Office

I understand the above PMB will be supplied to the table office shortly.

Please find attached the following:

1. Explanatory notes.
2. Statement of compatibility.

Thanks very much!

Clare Quinn

Parliament & Policy Advisor

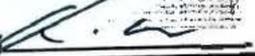
For Amy MacMahon, Greens MP for South Brisbane

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We acknowledge the Aboriginal and Torres Strait Islander owners of the lands on which we work, and pay our respects to elders, past and present.

Queensland Legislative Assembly
Number: 572172035
Tabled
By Leave
- 1 DEC 2021
MP: DR MACMAHON
Clerk's Signature: 

The Hon Alan Wilson QC
(thehonalan.wilson@icloud.com)

Prof Gerard Carney
(gcarney20@gmail.com)

29 November 2021

Michael Berkman MP,
(maiwar@parliament.qld.gov.au)

Dear Mr Berkman

We have been asked to consider, in some haste, a ruling of the Speaker given on Wednesday 17 November 2021 (Hansard p. 3553). What follows is our opinion whether that ruling was, with respect, incorrect or unsupported by Queensland constitutional law. That opinion is *pro bono*, and does not engage with nor consider events and circumstances which led to the ruling.

In our opinion there is a substantial argument that ss. 65 and 68 of the *Constitution of Queensland* 2001, on their proper reading, allow Parliament to consider non-government taxation Bills. That reading is informed by a consideration of UK and Australian Commonwealth, and Queensland, constitutional law and convention and parliamentary practice (including the terms of the *Queensland Constitution Act* 1867).

The Speaker's ruling might, again with respect, have more force if it sought to apply only to legislation dealing with supply. When it seeks to extend to taxation bills, however, it runs up against the fact that s. 65 plainly invests the taxation power in the Legislative Assembly, but s.68 *only* applies, on its face, to appropriation Bills. So far as we are aware there is nothing in the Standing Orders which overrides that relatively plain, black-letter construction. In that analysis, the Speaker's ruling appears to be incorrect.

We agree that this letter might be released by you for purposes associated with debate around the Speaker's ruling.

Yours Truly,

Alan Wilson QC & Prof Gerard Carney

29 November 2021

Law School

The Speaker of the Legislative Assembly of Queensland
The Honourable Curtis Pitt MLA

The Clerk of the Legislative Assembly of Queensland
Mr Neil Laurie

Dear Sirs

STATUS OF NON-GOVERNMENT BILLS ON TAXATION MEASURES

The member for Maiwar's office approached me a week ago, asking if I had an opinion on or materials relevant to the question of non-government bills proposing taxation measures in Queensland. My expertise is in the law of politics including parliamentary law.

I have given the question considerable thought. My conclusion is that the clearly better argument is that *non-government bills proposing taxation measures are currently in order in the Queensland Legislative Assembly*.

I have agreed for the member's office to pass on to you, and the broader parliament, the reasons below, to assist in any future consideration of this interesting and important question. I stress this is the pro bono opinion of a research professor in the field; not a paid legal advice. It is made without reflection on the merits of any measures or any existing rulings on the question.

Background: UK and Commonwealth of Australia

Historically, parliamentary control of money bills was critical to the evolution of parliamentary sovereignty and, later, representative democracy. It represented a key convention in what we now call 'responsible government'.

Presently, the rule at Westminster is that 'charges upon the people' must be 'authorised by a Ways and Means resolution moved by a Minister'.¹ That said, a private member of the UK Parliament may bring in a measure 'to provide relief from taxation'. That is, alleviation of existing taxation does not need a government sponsored 'Ways and Means resolution'.²

In comparison, s 53 of the *Commonwealth Constitution* denies the Senate the ability to initiate (or amend) taxation measures. This does not prevent non-government members from initiating such measures in the lower house. However the House of Representative Standing Orders have since provided that only a 'Minister' may initiate or amend proposals that 'impose, increase or decrease' taxation.³ This rule is neither constitutionally required nor forbidden.⁴ Nor is it a recent restriction: forty years ago the *House of Representatives Practice* said it was part of an overall 'principle of financial initiative of the Crown'.⁵

The Commonwealth rule is reasonable. But it is not the law of Queensland. And its instructive value is limited since it is just a Standing Order, nestled within a constitutional framework that otherwise permits non-government taxation bills in the lower house, a framework itself a federalist compromise concerned with the powers of a strong Senate, a hybrid grafted onto a Westminster base.⁶ Queensland is not a

¹ D Natzler and M Hutton, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (25th ed, 2019) para 36.1.

² *Ibid*, para 36.18

³ House of Representatives, *Standing Orders*, order 179.

⁴ A similar position applies in the NT: the *Northern Territory (Self-Government) Act 1978* (Cth) s 11 only gives sole initiation of bills to dispose (ie spend) revenue to the executive; but the NT Assembly has since adopted Standing Order 172 extending that to taxation bills. The ACT Assembly Standing Orders, conversely, contain no rule preventing non-government taxation bills.

⁵ JA Petriker (ed), *House of Representatives Practice* (1st ed, 1981) 352.

⁶ On s 53 as compromise, see N Aroney et al, *The Constitution of the Commonwealth of Australia* (CUP, 2015) 87.

federation within itself and has a unicameral parliament. Similarly, the UK provisions, whilst more liberal than the Commonwealth, are at most indications of evolving practice at Westminster.

Queensland Constitution and Standing Orders Governing the Question

Conventions, whether from Westminster or in Australia, rest on precedents and evolve. They give way to black letter rules. In this they are like common law, which can be overridden and remade by statute law.

The *Constitution of Queensland 2001* s 65 repeats the fundamental principle that 'a requirement to pay a tax ... must be authorised under an Act'. This affirms the importance of the historical (and historic) battle for parliamentary supremacy over executive fiat. It is as much consistent with the Legislative Assembly debating taxation measures proposed by government ministers as measures from non-government MPs.

Section 68 then codifies the principle of government control of supply or appropriation measures (subject to parliamentary veto). It does not mention taxation or revenue measures. The *Constitution of Queensland 2001* was drafted in the late 1990s by the Queensland government and a Constitutional Review Commission, then adopted by the Parliament. The Commission stated that s 68 affirmed '[the] principle that the executive has a monopoly over initiation [of 'appropriation'] long established in Westminster model systems', rejecting any messier US system where Congress prunes and embellishes a draft budget proposed the President.⁷ Again, no mention of taxation or revenue measures.

Neither the Parliament nor the Commission could have been unaware of the option to provide for executive control over the initiation of taxation measures, given: (i) the Commonwealth position, (ii) historical debates and, above all, (iii) that s 18 of the old *Constitution Act 1867* included 'any ... tax or impost' in the class of bills reserved solely to government initiative.⁸ The old statutory interpretation principle that the express mention of one thing implies the exclusion of another, is barely needed to conclude that the intended – and literal – meaning of the 2001 *Constitution* is to permit non-government measures dealing with taxation.

The Legislative Assembly's Standing Orders (2004-2021) are to the same effect. They reinforce s 68 by only requiring proposals for 'appropriation' to have been recommended by the Governor on behalf of the executive government. They do not mention taxation measures.

Responsible Government and Inherent Differences between Appropriation and Taxation Bills

Responsible government is not a mere historical convention; it is a fundamental assumption of Queensland's ongoing constitutional system. It is understandable that an executive government would prefer to have control over the drafting of all money bills, including taxation measures.

However responsible government is not just a set of principles to protect strong government; it is rooted in a yin/yang relationship with parliamentary democracy. Parliament should not cede to the executive the ability to pre-emptively or categorically stanch debate on taxation measures or options, without such a clear rule being consciously adopted. Put another way, Parliament must be its own master. If a governing party majority cares to limit debate on a particular measure, that is its prerogative. Similarly if, like the House of Representatives, it wishes to limit a class of private members bill, that is possible. But, as explained above, the black letter law of the *Queensland Constitution* and Standing Orders impose no categorical limit on taxation

⁷ Queensland Constitutional Review Commission, *Issues Paper for the Possible Reform of and Changes to the Acts and Laws that Relate to the Queensland Constitution* (July 1999) at 520. See also at 519 noting that what is now s 65 'confirms Parliament's control over government finances by way of revenue'.

⁸ The earlier Electoral and Administrative Review Commission report into a possible review of Queensland's constitutional acts had merely recommended that s 18 be 'redrafted', in 'modernised language', to affirm parliamentary authorisation of all expenditure and to 'ensure that the Executive cannot disburse public funds without appropriation of the Parliament, which in turn requires the authority of the Governor to make an appropriation': *Report on Consolidation and Review of the Queensland Constitution* (EARC, Aug 1993) pp 100-1. The Explanatory Note to the Constitution of Queensland Bill 2001 (p 33) notes that s 18 is about the 'balance between the Executive and the Parliament in relation to finance', to not allow the Assembly to 'originate or pass a vote, resolution or Bill for the appropriation [from] the consolidated fund, unless it has been first recommended by message of the Governor.'

measures. Until Parliament amends either, there is no rule in Queensland that a non-government bill is out of order merely for proposing a taxation measure. Indeed if there were, it would be a fuzzy beast: what is a 'taxation' measure? are only imposts or amended rates prohibited?⁹

This conclusion is buttressed by reflection on the traditional purpose of limiting non-government money bills. Confidence of the lower house – the fount responsible government formation – depends intimately on the passage of a budget. Executive government cannot be sustained without such supply. As precedents such as the 1975 crisis or the resignation of governments over supply issues (witnessed only last week in Sweden) attest, supply is a litmus test for confidence.

These precedents are not just negative demonstrations of this basic principle. There are positive ones, involving minority government formation. To commission a new executive, the Crown just needs assurance of sufficient cross-bench support guaranteeing supply. Guarantees of support of governmental taxation measures is not required. Indeed the present government first came to power in 2015, on a supply-only guarantee.¹⁰

All this makes sense, given the practicalities of public finance. If a taxation measure is blocked, governments can borrow any shortfall. In public finances, taxation revenues are not predictable anyway, so complete government control of taxation measures is not critical. 'Money in' fluctuates, depending on economic conditions. In contrast, expenditure – supply bills – are not only vital under the rule of law, they are more predictable and controllable. They are also sprawling and can only sensibly be finalised by the Cabinet with intricate input from the whole of government. No parliament, let alone private member, could begin to draft a budget bill. Taxation measures are more discrete. Indeed, in some cases they have specific social and behavioural policies in mind, as much as revenue-raising.¹¹ It is no impost on government (pardon the pun) for the Legislative Assembly to consider non-government taxation measures.

These insights are to an extent reflected in the UK practice, noted above, where private members may propose reductions in taxation. Conversely, if a non-government bill proposing a new or increased tax in Queensland were to pass the Legislative Assembly, the government might be politically embarrassed. But fiscally it would be enhanced, not embarrassed.

In short, besides the comparative and black-letter law, there are inherent differences between supply and taxation measures to explain why Queensland has a constitutional distinction between them.

This position, of course, is not fixed. The Legislative Assembly is free to reform Queensland's *Constitution* and its Standing Orders, if it wants to give governments sole power to introduce taxation or other revenue measures. However it ought do so after reflection, consideration by relevant committees, and majority vote.

I would be happy to clarify or further discuss anything in this advice.

Yours



Graeme Orr BA, LLB (Hons), LLM, PhD, FASSA, FAAL
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⁹ Cf Income Tax Assessment Amendment Bill 1988 (Cth), a private measure by an MHR clarifying a definition of a class of charities: considered in Hansard (House of Representatives, 10/11/1988, 2790).

¹⁰ Mr Wellington pledged to Premier Palaszczuk his 'support on Confidence motions and ... support on [the government's Appropriation Bill]. Taxation and revenue measures were not guaranteed. [https://media.apnarm.net.au/img/media/pdf/050215_Letter_to_ms_anna_stacia_palaszczuk_mp_x/\(nrre3461snq5dhrmj2.PDF](https://media.apnarm.net.au/img/media/pdf/050215_Letter_to_ms_anna_stacia_palaszczuk_mp_x/(nrre3461snq5dhrmj2.PDF)

¹¹ Examples include specific 'vice' taxes and dispensation to particular industries.



19 May 2023

Ms Jennifer Howard MP
Chair, Ethics Committee
Via email: ethics@parliament.qld.gov.au

Dear Ms Howard and Ethics Committee Members,

Thank you for your letter dated 4 May 2023 regarding allegations raised by the Speaker, received on 12 December 2022. I thank the committee for the opportunity to make a submission in relation to one of the allegations referred by the Speaker, as outlined in your letter.

This allegation relates to my introduction of a private members bill, titled the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022* (the Bill), and whether the introduction of this Bill amounts to contempt under Standing Order 266(22).

As the explanatory notes¹ outline, this Bill "...commits the government to giving every adult aged 18 and above, residing in Queensland as at 30 November 2022, a \$500 cost-of-living payment, funded by tripling the top tier of gas royalties during 2023".

My job as a member of parliament, and a member of the crossbench, is not only to scrutinize government legislation, but to put forward ideas that would meaningfully improve the lives of my constituents, and people across Queensland. A key function of the Assembly, and a key function of my duties as a member, is to propose and examine policies, legislation and the raising and spending of funds, for the benefit of Queenslanders. Private members' bills are one tool for proposing legislation, for the scrutiny and examination of the Assembly, and the people of Queensland.

I had consulted with a range of community members regarding the cost of living crisis in the lead up to Christmas 2022, which I know can be a tough time financially for people who might already be financially stretched. Having examined the huge profits being made by gas corporations, and the success of increased royalties on coal companies, myself and my team developed a plan to increase gas company royalties, and use this money to provide a cost of living relief payment of \$500 to all Queenslanders. We modeled this on an initiative of the Victorian Labor government in 2022, who provided a one-off \$250 payment to Victorians.

Part of this plan included drafting and introducing a private members bill, titled the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022*. Non-government members are allocated a short 30-minute window each sitting week within

¹ <https://documents.parliament.qld.gov.au/tp/2022/5722T2007-8CF9.pdf>

which we can introduce private members bills. On Wednesday 30 November 2022, I began my introductory speech, before being asked to cease my speech by the speaker. The allegations, questions on which I will respond to below, relate to me introducing this bill.

Response to questions

- 1. At the time of its introduction, what was your knowledge of the status of the Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022, with respect to whether it sought to raise revenue and / or appropriate funds from consolidated revenue?**

Myself and my staff had full knowledge that the Bill sought to raise revenue from increased gas royalties, and appropriate funds, by providing every Queenslanders with a \$500 cost-of-living payment.

- 2. If you had knowledge that the Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022 sought to raise revenue and / or appropriate funds from consolidated revenue, what was your intention in seeking to introduce a private member's bill that was contrary to the Speaker's rulings of 17 November 2021 and 26 October 2022?**

Contained in this question is the assertion that seeking to introduce the Bill was contrary to the Speaker's rulings of 17 November 2021 and 26 October 2022. This is distinct from the issue of intent, so for the purpose of clarity I will first address whether seeking to introduce the *Royalties and Cost of Living Relief Amendment Bill 2022* was contrary to the past rulings of the Speaker.

The Greens' position on the question of whether crossbenchers can make revenue proposals in private member's bills has been consistent, and I detail our position later in this letter. When the Speaker ruled that the Big Bank Levy (COVID-19 Health Response) Bill 2021 was out of order, my colleague the Member for Maiwar and I took the following steps:

- We shared our legal advice from Queensland constitutional experts directly with the government. This included advice from legal experts, including those involved in the very drafting of the Queensland Constitution Act 2001, that it is not correct to say that crossbenchers cannot make revenue proposals.
- I lodged a motion of dissent from the Speaker's ruling - recognised as the only way such dissent can be expressed.
- When the motion came up for debate, we tabled written advice from the Honourable Alan Wilson QC, Professor Gerard Carney and Professor Graeme Orr to support our position.

Notwithstanding this position, the Speaker's past interpretations and applications of the Constitution and Standing Orders were considered. Based on past rulings of the Speaker, I did not consider, either at the time or now, that seeking to introduce the *Royalties and Cost of Living*

Relief Amendment Bill 2022 was contrary to the order of the House, or to the Speaker's past rulings. Rather, my actions were guided by prior proceedings of the House, which I detail below.

I note that on 13 October 2022, I began my introductory speech for the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022* (the Empty Homes Levy Bill). I finished the introductory speech on 26 October 2022.

On 13 October, at the outset of my speech, a government member raised a point of order, alleging that an 'appropriation bill [sic] required a message from the governor.'

The Deputy Speaker first sought advice, and then advised that 'while the bill is still being introduced, it is not possible for that point of order to be considered. That is the advice that I have been provided with. Your point of order is noted, but the member for South Brisbane has the call as she is still introducing the bill to the parliament.' Please refer to page 2718 of the Hansard for details.²

From this deliberation of the Deputy Speaker, I inferred the act of introducing the Empty Homes Levy Bill, which similarly sought to raise revenue with a levy on homeowners who leave homes empty during a housing crisis, was allowable. I was allowed to proceed with the introduction of the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022*, as I was previously allowed to with the *Big Bank Levy (COVID-19 Health Response) Bill 2021* (the Big Bank Levy Bill).

Following the introduction of the Empty Homes Levy Bill and Big Bank Levy Bill, the Speaker, upon consideration of each of these Bills, later ruled those bills to be out of order, on the basis of financial convention. The Big Bank Levy Bill was introduced on 28 October 2021, the first reading was moved on voices, and the bill referred to a committee. The speaker's ruling was then circulated on 17 November 2021. I began my introductory speech for the Empty Homes Levy Bill on 13 October 2022, and moved for first reading on 26 October 2022. The speaker's ruling was circulated after I moved this bill for first reading. In both these cases, I was able to make an introductory speech, circulate copies of the bills, explanatory notes and statements of compatibility with human rights, and sought to move that the bills be read a first time.

The application of Standing Orders, by the Speaker and Deputy Speaker, was such: the introduction of a revenue bill without a message from the governor could proceed through first reading. Upon its finished introduction, the Speaker was liable to make a ruling with regard to its validity. It should be noted that at any time, it also remained open to the House to suspend Standing Orders should the House have wished any of these Bills to proceed to committee and second reading debate.

Accordingly, at the time of introducing the *Royalties and Cost of Living Relief Bill 2022*, I relied on a Speaker's ruling which inferred that no determination about a bill's constitutionality could be made during a first reading speech.

² https://documents.parliament.qld.gov.au/events/han/2022/2022_10_13_WEEKLY.pdf

I was aware that upon completing the introduction of the Bill, the Speaker, based on their past deliberations and rulings, could rule its introduction noncompliant with their interpretation of convention and Standing Orders. However, the possibility still remained for the House to suspend Standing Orders in such an event should the House have wished to progress the Bill to a committee inquiry and further debate.

As such, I proceeded on the basis of prior proceedings of the House. The principle I reasonably obtained from the Speaker's past rulings and deliberations is that the act of introducing a bill would be allowed, but following such an introduction, the Speaker could rule its introduction void under their interpretations of Standing Orders. The House could also have suspended Standing Orders, as frequently occurs on a range of questions.

I similarly regarded any likely application of Standing Order 174(1) to be applied similarly: that is, Standing Order 174(1) did not outright prohibit introducing appropriations bills without a message from the Governor per se, but rather the introduction of such a bill would merely make it liable to be discharged from the notice paper following its introduction.

My intention was to put forward a piece of legislation for examination and scrutiny, to provide cost-of-living relief to Queenslanders, in line with prior proceedings of the House. Not only was my seeking to introduce the *Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022* not contrary to the Speaker's rulings of 17 November 2021 and 26 October 2022, which were made subsequent to an allowed introduction of revenue Bills before a deliberation as to their legitimacy was made, my intentions for doing so were at no point to willfully disobey an order of the House, or to disrupt the orderly conduct of the business of the House.

The introduction of Private Members Bills is an opportunity for non-government elected representatives to contribute to policy discussions on behalf of their constituents. Private Members Bills are an opportunity to put forward ideas for the scrutiny of the Assembly, and people of Queensland. Government members on numerous occasions have commented on the quantity of Private Members Bills that the Greens have introduced, compared to the Opposition, as a demonstration of our in-depth engagement with the Assembly as a venue for ideas and debate. I intended only to act in accordance with the principles I reasonably inferred from the Speaker's past ruling to constructively contribute to policy debate, and prior proceedings of the House.

3. What is your knowledge and understanding of Standing Order 174(1) which requires that appropriation bills must be accompanied by a message from the Governor?

As stated above, my knowledge and understanding of Standing Order 174(1) is that it is not applicable to revenue bills. Based on past rulings of the Speaker where the speaker ruled revenue bills invalid, I inferred that Standing order 174 would apply similarly. That is, it would not

act to prevent the introduction of a bill, merely allow for the Speaker to make a decision regarding the validity of the bill subsequent to its introduction.

In this way, non-government members would be free to introduce revenue and appropriations bills in order to contribute policy ideas to parliament, but that the Speaker could rule such a bill invalid, and the House, by way of allowing the Speaker's ruling to stand, did not have to allow bills of this kind to be considered further.

The Speaker's application of Standing Order 174 on the 30 of November 2022 differs from Speakers' rulings on 17 November 2021, 13 October 2022, and 26 October 2022.

The Speaker's application of Standing Order 174 on 30 November 2022 and their ruling during my speech, that my bill could not be introduced, differs significantly from the approach previously taken by Speakers in the House. Compared to previous instances where the Speaker and Deputy Speaker allowed for the introduction of a bill before ruling that introduction invalid, the Speaker's application of Standing Order 174 on 30 November 2022 is far more restrictive for non-government members.

Based on prior proceedings of the House, and my understanding, an application of Standing Order 174(1) allows for a bill's complete introduction prior to a determination of its validity. These prior proceedings allowed some opportunity and time for non-government members to put forward initiatives that would improve the lives of Queenslanders, via private members bills. This application also affords a pragmatic House the opportunity to suspend standing orders should they wish to review, consult on, and debate such bills further.

4. What was your intention in introducing an appropriation bill that was not accompanied by a message from the Governor, contrary to Standing Order 174(1)?

As stated above, my intention was to:

- put forward a piece of legislation that would give every Queenslanders a \$500 cost-of-living payment, just prior to Christmas, by increasing royalties on gas companies.
- carry out the free performance of my duties as a member, which includes proposing legislation for scrutiny by the House and the people of Queensland.
- contribute to policy discussion and represent the constituents of South Brisbane by way of introducing a Private Members Bill.

Response to elements of the alleged contempt

1. Was an order of the House disobeyed?

I did not disobey an order of the House in seeking to introduce a private members bill. Rather, I proceeded on the basis of prior proceedings of the House. As stated above, I maintain that seeking to introduce any of the aforementioned bills was not contrary to the Speaker's past rulings or Standing Orders, and my seeking to introduce the *Royalties and Cost of Living Amendment Bill 2022* was based on prior proceedings of the House. Standing Order 174, when interpreted within the context of the principles of democratic parliament and applied similarly to the Speaker's rulings on 17 November 2021 and 26 October 2022, would still allow for the introduction bills. This had been the past approach for the two prior bills I introduced.

I argue that this is a correct interpretation of the Standing Orders, as it has regard to the democratic principles of parliament, allowing for constituents represented by a non-government member to contribute to policy discussions.

2. If yes, was the disobedience wilful?

As outlined above, I did not disobey an order of the House, and at no point was I willfully disobedient. My seeking to introduce any of the aforementioned bills was founded on reasonable and honest belief that such bills could be introduced for first reading, for the purpose of contributing to policy discussion, and for scrutiny by the House.

3. Was there a disruption to the orderly conduct of the House?

There was no disruption to the orderly conduct of the House. My conduct was orderly, based on prior Speakers' rulings and proceedings of the House, and in line with my responsibilities as a member.

In the case of two of the aforementioned bills being introduced, the Speaker and Deputy Speaker, including on the advice of the Clerk, allowed for the bills to be introduced, affording an opportunity for constituents of South Brisbane, represented by a non-government member, to be represented in policy discussions related to revenue and appropriations. Subsequent to the bills' introduction and in accordance with the Speaker's interpretation of the Constitution and Standing Order, these bills were ruled out of order and discharged from the notice paper.

As the letter from the Speaker dated 12 December 2022 notes, I rose to introduce the *Royalties and Cost of Living Relief Bill 2022* on 30 November 2022.

Despite the previous Speaker's ruling that no determination about a bill's constitutionality could be made while I was making my introductory speech, the Speaker intervened to require me to sit down shortly after I started my speech. Accordingly, I could not give my speech, and the Bill's first reading was not moved.

If my seeking to introduce a private members bill is deemed to be disorderly, I submit that, if this is the case, the appropriate sanctions have already been applied, with the introduction of the Bill being denied.

4. If there was disobeying of the Order or disruption of the orderly conduct, did it amount to, or was it intended or likely to amount to, an improper interference with the free exercise by the Assembly of its authority or functions?

All aforementioned introductions of bills occurred within time allocated for non-government members to introduce private members bills.

These Bills were contributions to policy debate on behalf of the constituents of South Brisbane.

It does not necessarily follow that just because the introductions of these Bills could be ruled invalid, that seeking to introduce them, as a means of contributing to policy debate, was not a proper exercise of the functions of the Assembly.

As such, it could not be said that there was an improper interference with the free exercise by the Assembly of its authority or functions.

Legitimacy of introducing appropriations and revenue Private Members Bills

As I have outlined in explanatory notes, parliamentary debate, and prior communications with the Ethics Committee, myself and the Member for Maiwar have argued that there is a distinct constitutional and parliamentary legitimacy to our introduction of revenue-raising bills. Our reasons are set out below.

Relevant provisions

Section 68 of the *Constitution Of Queensland Act 2001* provides:

Governor's recommendation required for appropriation

(1) The Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of—

(a) an amount from the consolidated fund; or

(b) an amount required to be paid to the consolidated fund;

that has not first been recommended by a message of the Governor.

(2) The message must be given to the Legislative Assembly during the session in which the vote, resolution or Bill is intended to be passed.

Standing Orders currently provide:

174. Appropriation proposal to be recommended

(1) No proposal (including a Bill or a motion) for an appropriation that falls within the meaning of s.68 of the Constitution of Queensland 2001 shall be introduced unless first recommended by a message of the Governor as required by that section.

(2) No amendment of a proposal recommended by a message of the Governor shall be moved which would increase, or extend the objects and purposes or alter the destination of the appropriation so recommended, unless a further message is received.

175. Governor's message to be read prior to first reading

(1) When a message from the Governor, recommending that an appropriation of money be made for a Bill is required, the message shall be presented to the Speaker and read to the House immediately prior to the question for the first reading of the Bill.²⁶

(2) When a message from the Governor, recommending an amendment be moved to a Bill for the appropriation of money is required, the message shall be presented to the Speaker and read before the amendment is moved.

On 16 June 2011 the Legislative Assembly amended the Standing Rules and Orders by (a) replacing Parts 5, 6, and 7. This included the new SO 174 above.

Previous to these amendments Standing Orders had provided:

164 Appropriation proposal to be recommended

(1) No proposal (including a Bill or a motion) for the appropriation of any public moneys or the relief of any debt owed to the public shall be made unless the purpose of the appropriation has in the same session been recommended to the House by message of the Governor.^[1]

(2) No amendment of a proposal by the Governor shall be moved which would increase, or extend the objects and purposes or alter the destination of the appropriation so recommended, unless a further message is received.

165 Appropriation Bills and other proposals require Governor's message

(1) When a message from the Governor, recommending that an appropriation of money be made for a Bill is required, the message shall be presented to the Speaker and read to the House immediately prior to the question for the first reading of the Bill.^[2]

(2) When a message from the Governor, recommending an amendment be moved to a Bill for the appropriation of money is required, the message shall be presented to the Speaker and read before the amendment is moved.

(3) Only a Minister in accordance with a message from the Governor may introduce an Appropriation Bill or propose the imposition of a tax, rate, duty or impost or increase or alter the incidence of a charge.

(4) Only a Minister in accordance with a message from the Governor may move an amendment to increase, or extend, the incidence of a charge unless the charge so increased or the incidence of the charge so increased shall not exceed that already existing by virtue of any law of Queensland.

Other jurisdictions

Clause 53 of the Commonwealth Constitution provides:

53. Powers of the Houses in respect of legislation

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

By contrast with their Queensland equivalents, the Commonwealth House of Representatives Standing Order 179 provides:

(a) Only a Minister may initiate a proposal to impose, increase, or decrease a tax or duty, or change the scope of any charge.

(b) Only a Minister may move an amendment to the proposal which increases or extends the scope of the charge proposed beyond the total already existing under any Acts of Parliament.

(c) A Member who is not a Minister may move an amendment to the proposal which does not increase or extend the scope of the charge proposed beyond the total already existing under any Acts of Parliament.

This position is reinforced in the Commonwealth jurisdiction by *House of Representatives Practice (7th ed.)*:

“Financial initiative of the Executive

What is called the ‘financial initiative of the Executive’—that is, the constitutional and parliamentary principle that only the Government may initiate or move to increase appropriations or taxes—plays an important part in procedures for the initiation and processing of legislation.

The principle of the financial initiative may be paraphrased as follows:

- *The Executive Government is charged with the management of revenue and with payments for the public service.*
- *It is a long established and strictly observed rule which expresses a principle of the highest constitutional importance that no public charge can be incurred except on the initiative of the Executive Government.*
- *The Executive Government requests money, the Parliament grants it, but the Parliament does not vote money unless required by the Government, and does not impose taxes unless needed for the public service as declared by Ministers.[5]*

The reference to ‘public charge’ in this context means a charge on public funds (an appropriation) or a charge on the people (a tax). The traditional position is expressed in May—‘A charge of either kind cannot be taken into consideration unless it is sought by the Crown or recommended by the Crown’.

The financial initiative in regard to appropriation is expressed in, and given effect by, section 56 of the Constitution:

A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

The principle of the financial initiative is also expressed in, and given effect by, the constitutional restrictions on the powers of the Senate to initiate and amend appropriation and taxation legislation, as outlined below.

The standing orders of the House in relation to financial legislation reflect the principle of the financial initiative. In some matters the House has imposed on itself restrictions that appear to go beyond the letter of the Constitution, but which are based on constitutional convention. In 2013 the Speaker presented to the House a paper prepared by the

Clerk's Office on the background to the constitutional provisions and their application: The law making powers of the Parliament: three aspects of the financial initiative—updated notes for Members.”

In the context of the Westminster Parliament, Erskine May provides:

“It was a central factor in the historical development of parliamentary influence and power that the Sovereign was obliged to obtain the consent of Parliament (and particularly of the House of Commons as representatives of the people) to the levying of taxes to meet the expenditure of the State. But the role of Parliament in respect of State expenditure and taxation has never been one of initiation: it was for the Sovereign to request money and for the Commons to respond to the request. The development of responsible government and the assumption by the Government of the day of the traditional role and powers of the Crown in relation to public finance have not altered this basic constitutional principle: the Crown requests money, the Commons grant it, and the Lords assent to the grant. In more modern terms, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of Ministers, first to authorise the relevant expenditure (or ‘Supply’) and, second, to provide through taxes and other sources of public revenue the ‘Ways and Means’ deemed necessary to meet the Supply so granted. The role of the House of Lords is confined to assenting to such financial provisions of the House of Commons as require statutory authorisation.

The financial control of the House of Commons is exercised at two different levels. So far as policy is concerned, it authorises the various objects of expenditure and the resources to be used and the sums to be spent on each; it also authorises the levying of taxes. On the level of administration, it satisfies itself that its expenditure decisions have been duly carried out—in other words, that the amounts it has authorised, and no more, have been used for the purposes for which they were granted, and for no other purposes. For both sets of functions the House of Commons has, partly through its own procedure and partly through legislation and administrative practice, devised appropriate machinery.”

As the Speaker points out, the *Constitution of Queensland Act 2001* and the Standing Orders of the Queensland Parliament do not prevent Private Members' Bill proposing revenue measures.

We agree with the Speaker that our system of government is comprised of many fundamental conventions that are not expressed in statute or standing orders. Our view is that the explicit words of the Constitution Act and the Standing Orders have narrowed the scope of any convention which holds that the Executive has sole power to initiate revenue Bills.

In the context of the Commonwealth Standing Orders, which clearly include revenue Bills in the convention, and the Commonwealth Constitution which makes a distinction between the powers of the Senate and the House of Representatives (where governments are formed) in relation to both appropriations and revenue Bills, it is implausible that the Queensland Constitution and Standing Orders could be drafted exclude revenue Bills other than intentionally.

Read together, the Commonwealth Standing Orders and the Commonwealth Constitution are a clear codification of an old convention. By contrast, the drafters of the *Constitution Of Queensland Act* and the current Queensland Standing Orders clearly elected to deviate from the previously existing convention.

Further to the words in the relevant Queensland provisions, there are several key distinctions between appropriations and revenue Bills which weigh in favour of allowing non-Government MPs to introduce revenue Bills:

- Responsible government, which sits at the heart of the convention, rests on confidence in supply, rather than in every tax issue which comes before Parliament. Parliament can block any tax bill without affecting confidence.
- Practically, the government depends on the ability to spend money via appropriations, whereas tax measures are more discreet.
- Passage of an appropriations Bill is “all or nothing”. Fluctuations in revenue by contrast do not affect the government in same way because the government can always borrow money to make up any shortfall and bond markets fluctuate to compensate.
- Some bills imposing levies are at least as much direct social policy (eg tax breaks on local production) as revenue measures.
- The Executive government alone has access to the information to draft appropriations Bills, drawing input from all agencies. The same is not true of revenue Bills.

Queensland is somewhat unique as a unicameral Westminster Parliament. In that context, and given the words of the *Constitution of Queensland Act*, opportunities for broad discussion and scrutiny of government revenue policy should be prioritised, including by allowing non-Government MPs to propose revenue Bills.

Extrinsic material relevant to the *Constitution Of Queensland Act* discusses the convention of the financial initiative of the Executive extensively, but does so only in the context of appropriations Bills, never in the context of revenue Bills. Among a long list of examples:

- Electoral and Administrative Review Commission, [Report on Consolidation and Review of the Queensland Constitution](#), Government Printer, Brisbane, August 1993.
 - EARC’s recommendation for the drafting of a new constitution [para 6.221 and 6.222] does not include revenue Bills, only recommending that the new constitution should “provide that no monies shall be spent without authorisation by an Act of Parliament.” and that it should “ensure that the Executive cannot disburse public funds without appropriation of the Parliament, which in turn requires the authority of the Governor to make an appropriation.”
- Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, [Consolidation of the Queensland Constitution: Final Report](#), Report No 13, April 1999
 - Includes the following commentary on then-draft Cl 67 in the *Constitution of Queensland Bill 1999 (Final Draft)*: “Clause 67 (CA s 18) represents a further balance between the Executive and Parliament in relation to finance. While cl 65 provides that the Executive must not spend public money without the Legislative

Assembly's authorisation, cl 67 provides that the Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of an amount from, or an amount required to be paid to, the consolidated fund unless it has first been recommended by message of the Governor. The clause further provides that the message must be given to the Legislative Assembly during the session of Legislative Assembly in which the vote, resolution or Bill will be passed."

- At the very least, this commentary characterises the convention as applying only to appropriations Bills, revenue bills being exempt.

Index of extrinsic material

Below is a full index of extrinsic material to the *Qld Constitution Act 2001* including selected page references:

1. EARC, Issues Paper No. 21: [Consolidation and Review of the Queensland Constitution](#), Government Printer, Brisbane, February 1993.
 - a. See Page 51 (PDF page 58), paragraphs 4.44 and 4.45.
2. Electoral and Administrative Review Commission, [Report on Consolidation and Review of the Queensland Constitution](#), Government Printer, Brisbane, August 1993.
 - a. See page 99 (PDF page 110), para 6.209 to 6.222
 - b. See Annexure B on PDF page 223 re cl 34 of *Queensland Constitution Bill 1993*.
3. Parliamentary Committee for Electoral and Administrative Review, [Report on Consolidation and Review of the Queensland Constitution](#), Report No 24, Government Printer, Brisbane, November 1994.
4. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, [Consolidation of the Queensland Constitution: Interim Report](#), Report No 10, May 1998
 - a. See Part II, page 25-26 re clauses 58-61
5. The 1999 Queensland Constitutional Review Commission (QCRC) publication, [Issues Paper for the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution](#)
 - a. See draft CI 66 (similar to the final wording) on page 520 (PDF page 98).
6. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, [Consolidation of the Queensland Constitution: Final Report](#), Report No 13, April 1999
 - a. See Part II Ch 5, pages 25-26 (re clauses 63-67) (PDF pages 120 and 121)
 - b. See PDF page 159 - table of provisions
7. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, [Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution](#), Report No 24, July 2000
 - a. See PDF page 65

There is no extrinsic material available in relation to the 2011 changes to Queensland Standing Orders. The Secretariat of the Committee of the Legislative Assembly has confirmed to the Member for Maiwar's office that while the Committee did consider the 2011 changes, no public report was issued. The Secretariat was unable to provide any documents relevant to the 2011 changes to Standing Orders. The [Hansard records of Parliamentary debate on 16 June 2011](#) show no substantive debate, with the changes passing in just two minutes (see pages 1915-1936).

I look forward to the committee's consideration of my submission. I'd be happy to provide any further information that may assist the committee in its considerations.

Kind regards,



Amy MacMahon
Member for South Brisbane



11 September 2023

Ms Jennifer Howard MP
Chair, Ethics Committee
Via email: ethics@parliament.qld.gov.au

Dear Ms Howard and Ethics Committee Members,

Thank you for your letter dated 29 August 2023 regarding allegations raised by the Speaker, received on 12 December 2022. I thank the Committee for the opportunity to make a submission in relation to this matter.

In your most recent correspondence, you state that the Committee "...has made a preliminary finding of contempt of Parliament against you for wilfully disobeying an order of the House and disrupting the orderly conduct of the business of the House or a committee (Standing Order (SO) 266(22))." The Committee has requested that I provide a submission regarding my views in relation to what further action be taken.

My view is that the Committee should reconsider its preliminary finding and instead conclude that my actions did not amount to contempt. Further, my view is that if the Committee does not reconsider its preliminary finding, that the Committee should recommend that no further action be taken.

This allegation relates to my introduction of a private member's bill, which is a piece of legislation introduced by someone who is not a Minister. The private member's bill in question is titled the ***Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022 (the Bill)***¹. As the explanatory notes outline, **this Bill "...commits the government to giving every adult aged 18 and above, residing in Queensland as at 30 November 2022, a \$500 cost-of-living payment, funded by tripling the top tier of gas royalties during 2023"**.

The allegations refer to whether the introduction of this Bill amounts to contempt under Standing Order 266(22).

I recommend that no further action be taken for the following reasons:

- As I have shared in previous correspondence, **my job as a member of parliament, a member of the crossbench, and a representative for the people of South Brisbane,**

¹ The Explanatory Notes for this Bill can be read here:
<https://www.legislation.qld.gov.au/view/pdf/bill.first.exp/bill-2022-051>

is not only to scrutinize government legislation but to put forward ideas that would meaningfully improve the lives of my constituents and people across Queensland. A key function of the Assembly, and a key function of my duties as a member of parliament, is to propose and examine policies, legislation, and engage with the raising and spending of funds. I undertake these duties for the benefit of all Queenslanders. Private members' bills are one tool for proposing legislation for the scrutiny and examination of both the Assembly and the people of Queensland.

- **I remain of the view, as set out in my submission dated 19 May 2023, that I did not disobey an order of the House in seeking to introduce the Bill.** Rather, **I proceeded on the basis of prior proceedings of the House.** In particular, I proceeded based on the Speaker's ruling of 28 October 2021, which inferred that no determination about a bill's constitutionality could be made during a first reading speech. As such, I maintain that I proceeded on the basis of prior proceedings of the House, and that my actions do not amount to contempt.
- **Any penalty or action against me would have a chilling effect on crossbench members' engagement with parliamentary and legislative processes.** As the Committee is aware, despite a range of limitations, during this term, the crossbench members have engaged deeply with Queensland's legislative process and introduced a number of private members' bills - far more than the Opposition. **If the Committee recommends action is taken against me, such action would send a clear message to the crossbench and any non-Ministerial members that their legislative contribution to Queensland is not welcome.** If crossbench and non-Ministerial members are discouraged from introducing private members' bills, this would be a loss for Queensland's democracy and would cause a restriction of parliamentary democracy in this state.
- Lastly, as the Committee is aware, I already have not been able to have the content of the Bill scrutinized by a committee or the Assembly. Not having the Bill scrutinized by our parliamentary processes, nor by the people of Queensland, constitutes a penalty towards me in-and-of-itself.

Given this, **I encourage the Committee to reconsider its preliminary finding and instead conclude that my actions did not amount to contempt.** If the Committee is set on maintaining its preliminary finding and recommends to the Parliament that I be found in contempt, **it is my view that the Committee should recommend that the Parliament take no further action in respect of the matter.**

If you require any further details, I can be contacted at south.brisbane@parliament.qld.gov.au or on 07 3724 9100.

Kind regards,



Amy MacMahon
Member for South Brisbane