THE FINANCIAL INITIATIVE OF THE CROWN AND PRIVATE MEMBERS' BILLS IN QUEENSLAND

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The convention of the financial initiative of the Crown has recently been applied by the Speaker of the Legislative Assembly of Queensland to deny to private members the ability to introduce, and have considered by the Assembly, Bills that deal with appropriations or revenue. In this article, I examine historical and recent practice to demonstrate that Queensland has a mixed record of practice in relation to both appropriation and revenue Bills. Drawing on reforms from Canada and New Zealand, I propose that appropriation and revenue Bills introduced by private members could be ruled out of order at a later stage in the legislative process to better balance the rights of members against the executive's right to control public finances.

I INTRODUCTION

Most Parliaments have rules and procedures relating to financial legislation.[1] Some of these rules and practices are grounded in constitutions.[2] Others stem from longstanding practice or constitutional principles. Most Australian Parliaments restrict the ability to initiate financial legislation to members of the executive. Put another way, members who are not Ministers are prevented from proposing appropriation or revenue bills. This article invites a reconsideration of those restrictions. I argue that private members should be able to introduce appropriation or revenue Bills, although a mechanism should remain available to ensure that the executive retains ultimate control over public finances.

I develop this paper in four parts. Part II outlines the origins of the financial initiative of the Crown. Part III considers the recent practice of private members introducing appropriation Bills. It also canvasses a possible compromise solution of ruling Bills that infringe the financial initiative of the Crown out of order at a

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1 See, eg, The House of Commons (UK), *Standing Orders: Public Business 2024* (HC 829, 23 May 2024) standing orders 48–56; Department of the House of Representatives (Cth), *House of Representatives Standing Orders* (2 August 2022) ch 13 ('*House of Representatives Standing Orders*'); Legislative Assembly of Queensland, *Standing Rules and Orders of the Legislative Assembly* (31 August 2004) ch 30 ('*Legislative Assembly of Queensland Standing Rules and Orders*').

2 See, eg, *Australian Constitution* ss 53–6; *Constitution Act 1902* (NSW) pt 5; *Constitution of Queensland 2001* (Qld) ch 5 ('*Constitution of Queensland*'); *Constitution Act 1934* (SA) pt 2 div 5; *Constitution Act 1934* (Tas) pt IV; *Constitution Act 1975* (Vic) pt V; *Constitution Act 1889* (WA) pt VI.

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later stage in the legislative process. Part IV considers recent practice in relation to private members introducing revenue Bills in Queensland and the Australian Capital Territory and suggests the adoption of a financial veto procedure similar to the procedure used by New Zealand's House of Representatives. The conclusion (Part V) considers the implications for drafters.

For the purpose of this study, I examined all private members' Bills introduced into the Legislative Assembly of Queensland between the commencement of the *Constitution of Queensland 2001* (Qld) ('*Constitution of Queensland*') on 6 June 2002 and the end of the 57th Parliament in October 2024.[3] This article does not consider amendments moved during consideration in detail (or, as it is called elsewhere, the committee stage of debate).

II The Financial Initiative of the Crown

The financial initiative of the Crown is the constitutional principle that 'only the Government may initiate or move to increase appropriations or taxes'.[4] This principle has two limbs. The first relates to appropriations; the second limb relates to the imposition or increase of taxation.

Parliamentary practice at Westminster deals with each of these topics separately. From medieval times until 1660, the sovereign was responsible for meeting public expenses out of their personal revenue.[5] Where the sovereign required additional money, a Parliament would be called and it was recognised that the consent of the Parliament was required for both the raising of taxation and the purpose of the expenditure of the revenue raised by the tax.[6] Money given to the sovereign by Parliament was given to the monarch personally.[7] Any surplus could be spent by the sovereign at their discretion.[8] As a result, the House of Commons did not propose giving additional money to the Crown; it waited for a demand.[9] Over time, it became established practice that the Crown through its Ministers would advise the Commons of the amounts required to administer the executive government (the estimates) and the Commons would assent to the

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3 In this article, the term 'private member's Bill' is used in the sense described in the *Legislative Assembly of Queensland Standing Rules and Orders* (n 1) standing order 126(b): 'a Bill dealing with a matter of public policy introduced by a member who is not a Minister or by a Minister in their capacity as a member'. Due to space constraints, not all Bills examined are discussed in this article in detail.

4 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3554 (Curtis Pitt, Speaker).

5 Sir Barnett Cocks (ed), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (Butterworths, 18th ed, 1971) 687; Will Bateman, *Public Finance and Parliamentary Constitutionalism* (Cambridge University Press, 2020) 25; David Wilson (ed), *Parliamentary Practice in New Zealand* (Clerk of the House of Representatives, 5th ed, 2023) 539.

6 Marc Bosc and André Gagnon (eds), *House of Commons Procedure and Practice* (House of Commons of Canada, 3rd ed, 2017) ch 18; Bateman (n 5) 24.

7 Cocks (n 5) 687.

8 Ibid.

9 Ibid.

grant.[10] This could be expressed as the rule that a demand from the Crown preceded the grant of supply.

Any demand from the Crown for supply needed to be paid for. Thus, early procedure in the House of Commons saw the levying of taxes as a direct response to, and part of, the Crown's demand for supply.[11] The initiative of the Crown in relation to taxation was, therefore, implicit in the demand for supply.[12]

In the early 1700s, a practice started to emerge of petitions being presented to the House of Commons (and promoted by members who were connected to the petitioner) requesting that the House grant the petitioner public money.[13] As former Clerk of the House of Commons, John Hatsell, states, these petitions for military expenses were

> promoted by Members who were friends to the parties, and carrying with them the appearance of justice or charity, induced the rest of the House to wish well to, or at most be indifferent to their success, and by this means large sums were granted to private persons improvidently, and sometimes without sufficient grounds.[14]

The practice was initially curtailed by resolution in 1706, but led the House of Commons in 1713 to adopt a standing order to confirm the already long-standing practice that the House would not proceed upon a petition for a grant or charge upon public revenue (ie an appropriation that is not in the annual appropriation Bill) unless it was recommended by the Crown.[15] The underlying idea was that the Crown could choose to recommend to the Commons the granting of a petition for a particular sum in addition to its demand for supply and the House could safeguard the taxpayer against 'the casual benevolence of a House … [or] a scramble for public money among unscrupulous politicians bidding against one another for the favour of a democracy'.[16] In practice, the recommendation was only required in relation to novel expenditure that was charged to the consolidated revenue fund.[17]

By the end of the 18th century, the business of supply (the approval of appropriations and their purposes) and the business of ways and means (taxation) were clearly established as distinct.[18] The means for establishing royal

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10 Ibid 676.

11 David Natzler and David Hutton (eds), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (LexisNexis, 25th ed, 2019) [33.2].

12 Sir David Lidderdale (ed), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (Butterworths, 19th ed, 1976) 715.

13 Bateman (n 5) 52.

14 Ibid, quoting John Hatsell, *Precedents of Proceedings of the House of Commons* (Luke Hansard & Sons, 1818) 241–2.

15 The standing order, albeit in an amended form, survives today: Bateman (n 5) 52; The House of Commons (UK) (n 1) standing order 48.

16 Cocks (n 5) 689; William Reynell Anson, *The Law and Custom of the Constitution* (Clarendon Press, 4th ed, 1909) vol 1, 272.

17 William McKay (ed), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (LexisNexis, 23rd ed, 2004) 854.

18 Natzler and Hutton (n 11) [33.14].

initiative were also separate. Ways and Means resolutions were not recommended by the monarch but rather could only be moved by a Minister.[19] This practice was not embedded in standing orders, but instead survives based on 'ancient constitutional usage' and the practices of the House.[20]

When the Australian colonies received responsible government, the convention of the financial initiative of the Crown was imported into the colonial constitutional landscape. Most colonial constitutions included a provision requiring a message from the Governor in relation to appropriation Bills.[21] For example, the *New South Wales Constitution Act 1855* (Imp) 18 & 19 Vict, c 54 provided:

> LIV It shall not be lawful for the Legislative Assembly to originate or pass any Vote, Resolution, or Bill, for the Appropriation of any Part of the said Consolidated Revenue Fund, or of any other Tax or Impost, to any Purpose which shall not have been first recommended by a Message of the Governor to the said Legislative Assembly during the Session in which such Vote, Resolution, or Bill shall be passed.[22]

The provisions of this constitution applied in Queensland when the colony was separated from New South Wales by order in council on 6 June 1859.[23] Queensland consolidated a number of constitutional provisions and amendments that applied to the colony in the *Constitution Act 1867* (Qld) ('*Constitution Act*'). Section 18 of the *Constitution Act* reproduced s 54 of the 1855 *New South Wales Constitution Act*, but with minor changes to capitalisation and punctuation.[24]

Queensland's current constitution, the *Constitution of Queensland*, includes a modernised version of s 18 of the *Constitution Act*, which provides:

> **68 Governor's recommendation required for appropriation**
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> (1) The Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of—
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> (a) an amount from the consolidated fund; or
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> (b) an amount required to be paid to the consolidated fund;
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> that has not first been recommended by a message of the Governor.

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19 McKay (n 17) 896.

20 Ibid 854.

21 *Constitution Act 1867* (Qld) s 18, as enacted; *Constitution Act 1856* (SA) s 40, as enacted; *Constitution Act 1855* (Tas) s 33, as enacted; *Constitution Act 1889* (WA) s 67, as enacted.

22 *New South Wales Constitution Act* 1855 (Imp) 18 & 19 Vict, c 54, s 54. The long title of this Act was 'An Act to enable Her Majesty to assent to a Bill, as amended, of the Legislature of New South Wales, "to confer a Constitution on New South Wales, and to grant a Civil list to Her Majesty"'.

23 'Order in Council Empowering the Governor of Queensland to Makes Laws, and to Provide for the Administration of Justice in the Said Colony' in Queensland, *Queensland Government Gazette*, No 1, 24 December 1859, 7.

24 *Constitution Act 1867* (Qld) s 18.

(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.[25]

Consistently with the Westminster practice, a message from the Governor is only required in relation to appropriation Bills.

III Appropriation Bills

One of the consequences of s 68 of the *Constitution of Queensland* is that the Legislative Assembly may not 'originate or pass' a Bill that includes an appropriation of an amount from the consolidated fund unless the Bill has first been recommended by a message from the Governor. By convention, the Governor acts on the advice of Ministers, meaning that private members cannot, in practice, obtain a message from the Governor.[26] Section 68 has sometimes been interpreted as meaning that Bills that seek to appropriate an amount from the consolidated fund or seek to extend the objects and purposes or redirect an existing appropriation may not be introduced unless, immediately before the Bill is introduced, the Legislative Assembly has received a message from the Governor.[27] Where that interpretation is adopted, a Bill is likely to be ruled out of order on two bases: first, the Bill does not comply with the constitution and, second, the Bill does not comply with the standing orders of the Legislative Assembly.[28]

Standing orders 174 and 175,[29] which support s 68 of the *Constitution of Queensland*, relevantly 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* … 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.

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25 *Constitution of Queensland* (n 2) s 68.

26 A private member obtained a message from the Governor recommending the Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Bill 2020 (Qld). However, the Bill was effectively a government Bill that was introduced by the Member for Cook, Ms Cynthia Lui, a member of the Kulkalgal Nation of the Torres Strait.

27 See, eg, Queensland, *Parliamentary Debates*, Legislative Assembly, 30 November 2022, 3749–50 (Curtis Pitt, Speaker).

28 Ibid.

29 *Legislative Assembly of Queensland Standing Rules and Orders* (n 1) standing orders 174–5. Current standing orders 174 and 175 were adopted on 16 June 2011. Between 31 August 2004 and 15 June 2011, standing order 164 included a provision similar to standing order 174 but did not reflect as closely the wording of s 68.

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.

(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.

Taking s 68 and the standing orders together, one might fairly surmise that private members cannot introduce appropriation Bills. However, in practice, private members have introduced appropriation Bills and the Legislative Assembly has entertained them without objection.

A *Compensation or Financial Assistance Schemes*

In 2003, the Deputy Leader of the Opposition, Mr Seeney, introduced two related Bills: the Private Property Protection Bill 2003 (Qld) ('Private Property Protection Bill') and the Land Acquisition Amendment Bill 2003 (Qld) ('Land Acquisition Bill').[30] Part 3 of the Private Property Protection Bill introduced a new form of compensation that would be payable by the State for diminishing, removing or restricting a person's rights to the lawful use or enjoyment of the person's private property. The amount of compensation payable was the amount equivalent to any reduction in the fair market value of the property.[31]

The Land Acquisition Bill sought to amend the *Acquisition of Land Act 1967* (Qld) to provide additional compensation for landholders who have their property compulsorily acquired. The Bill sought to have landholders compensated for personal and financial costs associated with the resumption process and particular costs incurred in finding and buying a replacement property.[32] Since these Bills were introduced, a key question in deciding whether a Bill contains an appropriation is whether or not the public expenditure is incidental to or the main purpose of the legislation.[33] The primary objective of the Private Property Protection Bill was to require private property impact studies for new legislation.[34] However, the compensation scheme was also a substantial part of the Bill that acted to ensure the primary objective was fulfilled. Should the compensation scheme be considered 'incidental'? On one hand, the compensation scheme could be considered incidental to the main purpose of

30 Queensland, *Parliamentary Debates*, Legislative Assembly, 10 September 2003, 3375–6 (Jeff Seeney, Deputy Leader of the Opposition).
31 Private Property Protection Bill 2003 (Qld) cl 19 ('Private Property Protection Bill').
32 Land Acquisition Amendment Bill 2003 (Qld) cl 4 ('Land Acquisition Bill').
33 See below n 54. See also Queensland, *Parliamentary Debates*, Legislative Assembly, 13 March 2008, 907 (John English, Deputy Speaker).
34 Private Property Protection Bill (n 31) cls 5–6.

ensuring that impacts on private property are properly considered in developing legislation. However, on another view, the structure of the Bill strongly indicates that both the impact statements and the compensation scheme were key features of the Bill. Hence, it is arguable that the better view consists in considering the compensation scheme as a main feature of the Bill.

The Land Acquisition Bill amended s 20 of the *Acquisition of Land Act 1967* (Qld) to change the basis on which compensation for the compulsory acquisition of land was calculated.[35] The Bill inserted a new subsection (2A) into s 20. The lead-in words to the new subsection stated: 'In addition to the compensation assessed under subsection (2), compensation is also payable for—'.[36] This makes clear that the intent of the subsection was to extend what compensation was payable for. However, there was an existing appropriation to cover compensation for compulsory acquisition and the Bill merely changed the basis of the pre-existing calculation.[37]

In the cognate debate on the 2003 Bills, government members raised concerns about the amount of money the schemes would cost.[38] The compensation scheme in the Private Property Protection Bill was new. There was no suggestion that the compensation fund was subject to Parliament appropriating funds in future. The scheme would have required the appropriation of new money or the diversion of money that had been previously appropriated. However, the Speaker did not rule on the Bill and was not asked to. One reason for that omission might have derived from a comment in *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* ('*Erskine May*') that legislation affecting a compensation scheme is not an appropriation if it does no more than change the underlying basis for the State's liability under the general law.[39] In this sense, I hold that the 2003 Bills went beyond that standard and included new appropriations.

In 2005, the Leader of the Opposition, Mr Springborg, introduced the Public Sector (Victims Protection) Bill 2005 (Qld) which sought to establish a new compensation scheme to protect public officials who had their property damaged as a result of a violation of the criminal law.[40] As the Bill sought to introduce a new compensation scheme, the scheme would have required the appropriation of new

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35 Land Acquisition Bill (n 32) cl 4.

36 Ibid.

37 When the *Acquisition of Land Act 1967* (Qld) s 20 was amended to include similar measures in 2009, the Acquisition of Land and Other Legislation Amendment Bill 2008 (Qld) was not first recommended by a message from the Governor: Queensland, *Parliamentary Debates*, Legislative Assembly, 2 December 2008, 3965.

38 Queensland, *Parliamentary Debates*, Legislative Assembly, 19 May 2004, 1269 (Ken Hayward), 1271 (Lesley Clark).

39 Natzler and Hutton (n 11) [35.15]. For an example of that type of Bill in Queensland: see Workers' Compensation and Rehabilitation (Protecting Firefighters) Amendment Bill 2015 (Qld). The Bill inserted a presumption that particular diseases were contracted at work if the person contracted a particular disease and served a minimum number of years as a firefighter.

40 Queensland, *Parliamentary Debates*, Legislative Assembly, 12 May 2005, 1421 (Lawrence Springborg, Leader of the Opposition).

money from consolidated revenue or the diversion of previously appropriated money to fund it.

Similarly, in 2014, then Leader of the Opposition, Ms Palaszczuk, introduced the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2014 (Qld).[41] The Bill sought to extend the existing victims of crime assistance payments to victims of domestic violence, including in circumstances where the domestic violence did not constitute an offence.[42] The effect of the amendment was to divert an existing appropriation — the appropriation for financial assistance to victims of crime — to support a new purpose. When changes were eventually made by the Palaszczuk Labor Government to extend victims of crime financial assistance payments to victims of domestic violence in December 2016, the amending Bill was recommended by a message.[43]

These examples demonstrate that the Legislative Assembly has entertained some private members' Bills that contain an appropriation without objection.

Both s 68 and standing orders 174 and 175 operate in relation to an 'appropriation'. Since 2016, the question of what an appropriation is appears to have been resolved by the Speaker by reference to Crown Law advice received in 2016. In 2016, the Minister for Transport and the Commonwealth Games introduced the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 (Qld) ('Heavy Vehicle National Law Amendment Bill').[44] Chapter 4 of the Bill included a regulation-making power to provide for a financial assistance scheme for taxi and limousine licensees. The Bill was not first recommended by a message from the Governor because it was understood that the financial assistance scheme was to be funded from the instructing department's existing appropriations.[45] After the Bill was introduced, the Clerk raised with the Parliamentary Counsel whether the Bill should have been preceded by a message. On that basis, the Clerk and the Parliamentary Counsel joined together to obtain advice from Crown Law about the effect of s 68 of the *Constitution of Queensland*.[46] A summary of that advice was included in the Speaker's ruling that ruled the Heavy Vehicle National Law Amendment Bill out of order. The ruling summarised the advice as follows:

- Section 68 of the *Constitution of Queensland* … provides that the Legislative Assembly must not 'originate or pass' an appropriation Bill that has not first been recommended by a Governor's message.

[41] Queensland, *Parliamentary Debates*, Legislative Assembly, 22 May 2014, 1803 (Annastacia Palaszczuk, Leader of the Opposition).

[42] Domestic and Family Violence Protection and Other Legislation Amendment Bill 2014 (Qld) cl 20.

[43] Queensland, *Parliamentary Debates*, Legislative Assembly, 1 December 2016, 4863; Victims of Crime Assistance and Other Legislation Amendment Bill 2016 (Qld) pt 5.

[44] Queensland, *Parliamentary Debates*, Legislative Assembly, 13 September 2016, 3406 (Stirling Hinchliffe, Minister for Transport and the Commonwealth Games).

[45] Queensland, *Parliamentary Debates*, Legislative Assembly, 3 November 2016, 4107 (Peter Wellington, Speaker).

[46] Ibid.

- An appropriation for the purposes of s 68 is any conferral of authority upon the executive to pay an amount from the consolidated fund. An amendment which would potentially increase an existing appropriation, extend the objects and purposes of an existing appropriation or alter the destination of an existing appropriation will itself amount to an appropriation.
- The [Heavy Vehicle National Law Amendment Bill] is an appropriation Bill for the purposes of s 68.
- There is an argument that 'originate' is a relic of the bicameral era and now has no practical effect. On that view, s 68 effectively requires only that the Assembly not pass a Bill before it has been recommended by Governor's message. However, the better view having regard to the origins, purposes and precursors of and precedents relating to s 68 is that an appropriation Bill can neither be introduced nor passed before it has been recommended by Governor's message.
- ...
- Compliance with s 68 is not itself justiciable, but the Legislative Assembly should nonetheless follow constitutional procedures.
- Consideration [should] be given in due course to amending s 68 in line with the New South Wales equivalent so that the message requirement does not apply to a government Bill.[47]

The receipt of the Crown Law advice following the introduction of the Heavy Vehicle National Law Amendment Bill marks a watershed for Bills containing appropriations and appears to have started a turn in Queensland constitutional practice relating to the introduction of Bills that include appropriations. This turn is towards closer scrutiny of Bills for compliance with s 68 of the *Constitution of Queensland*. To demonstrate this turn, it is necessary to consider some marginal cases. Examples of Bills that include remuneration or expenses for holders of statutory offices can illustrate better this scenario because Bills imposing either minimal or incidental expenditure have generally not previously been objected to as amounting to an appropriation under s 68 of the *Constitution of Queensland*.

B *Remunerated Appointments*

To achieve a particular policy goal, private members sometimes request that new bodies or agencies be established. A question then arises about how to staff the new bodies and whether office holders are entitled to remuneration.

One approach to this question has been to provide for a discretion for the executive to determine whether, and if so, to what extent, persons are to be remunerated. This approach has been routinely used since at least 2005.[48]

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47 Ibid 4107–8.

48 See, eg, Penalties and Sentences (Sentencing Advisory Council) Amendment Bill 2005 (Qld) cl 5; Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Bill 2014 (Qld) cl 17; Mental Health (Recovery Model) Bill 2015 (Qld) cl 600(1); Planning and Development (Planning for

The Safer Waterways Bills of 2017 and 2018 were virtually identical. The Bills sought to establish a crocodile management authority and provided that neither the director nor the members of the board would be entitled to any payment, consideration or benefit '[e]xcept as decided by the Minister'.[49]

On 14 June 2017, Speaker Wellington gave a ruling in relation to the Safer Waterways Bill 2017 (Qld). Having considered the Bill, the Speaker determined that it was *not* an appropriation Bill. The Speaker did so having regard to the Crown Law advice provided to the Parliament in 2016 about s 68 of the *Constitution of Queensland*, which provided that, in unclear cases, the question for the Speaker is whether the Bill would potentially have the effect of increasing an existing appropriation.[50]

To give effect to the advice, Speaker Wellington developed a three-part test to determine if there is an appropriation in a Bill:

- Does the Bill purport to confer any authority to pay an amount from consolidated revenue?
- Does the Bill extend the objects and purposes of an existing appropriation?
- Does the Bill alter the destination of an existing appropriation?[51]

Speaker Wellington applied this test in his ruling on the Safer Waterways Bill 2017 (Qld):

> On the information available to me there is no existing appropriation for the purpose of a Crocodile Management Authority. Furthermore, upon examination of the relevant clauses of the bill (Clauses 5, 8, 10 and 17) alone I cannot find how the bill would potentially confer any authority to pay an amount from consolidated revenue or have [the] effect of extending the objects and purposes or altering the destination of an existing appropriation.
>
> While there would no doubt be cost implications if the establishment of the Authority was implemented, such costs *would appear to be incidental to and not caused by the clauses*. That is, *the clauses of the bill alone do not confer an authority to pay an amount from consolidated revenue*, nor do they potentially have the effect of extending the objects or purposes or of altering the destination of an existing appropriation.
>
> Accordingly, I rule that the Safer Waterways Bill does not contain an appropriation and accordingly does not require a message for the Governor in terms of s 68 of the *Constitution of Queensland* ... or Standing Order 174.[52]

Prosperity) Bill 2015 (Qld) cl 190; Safer Waterways Bill 2017 (Qld) cls 10(2), 17(3); Safer Waterways Bill 2018 (Qld) cls 10(2), 17(3); Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021 (Qld) cl 32; Queensland Climate Transition Bill 2023 (Qld) cls 26(2), 38(3).

49 Safer Waterways Bill 2017 (Qld) cl 17(3).

50 Queensland, *Parliamentary Debates*, Legislative Assembly, 14 June 2017, 1565 (Peter Wellington, Speaker).

51 Ibid.

52 Ibid 1565–6 (emphasis added).

In this ruling Speaker Wellington also emphasised, drawing on a 2008 ruling,[53] that a Bill is not an appropriation Bill simply because its implementation may have some potential incidental cost implications.[54] In 2018, Speaker Pitt gave an almost identical ruling in relation to the Safer Waterways Bill 2018 (Qld), concurring with Speaker Wellington's ruling on the 2017 Bill.[55] Importantly, Speaker Pitt's ruling also states that 'the clauses of the Bill alone' do not constitute an appropriation.[56] This statement indicates that something further must be done before the authority to pay money out of the consolidated revenue fund will exist. In the case of the Safer Waterways Bills, it would appear that a decision of the Minister was required before authority would exist to give effect to the appropriation. As a result, the clauses of the Safer Waterways Bills alone did not cause an appropriation.

Though they were not the subject of rulings, a similar logic would appear to have applied to earlier Bills, including the Penalties and Sentences (Sentencing Advisory Council) Amendment Bill 2005 (Qld), the Planning and Development (Planning for Prosperity) Bill 2015 (Qld) and the Environmental and Other Legislation (Reversal of Great Barrier Reef Measures) Amendment Bill 2021 (Qld). Under the provisions of those Bills,[57] a decision of the Governor in Council was a prerequisite to the executive having an authority to appropriate the required money from consolidated revenue. On that basis, no ruling was necessary because the clauses themselves did not appropriate funds from the consolidated fund.

C *Bills introduced in the 57th Parliament (2020–2024)*

In 2022, Dr MacMahon of the Queensland Greens introduced the Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022 (Qld) which would have required the chief executive to make an assistance payment of $500 to each adult who applied for the payment and resided in Queensland on a specified day.[58] Dr MacMahon was not allowed to introduce the Bill because the Bill had not first been recommended by a message from the Governor.[59]

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53 Queensland, *Parliamentary Debates*, Legislative Assembly, 13 March 2008, 907 (John English, Deputy Speaker). The 2008 ruling stated that '[t]his is not a case where public expenditure is incidental. The main purpose of the amendment is to cause a public expenditure'.

54 Queensland, *Parliamentary Debates*, Legislative Assembly, 14 June 2017, 1565 (Peter Wellington, Speaker).

55 Queensland, *Parliamentary Debates*, Legislative Assembly, 2 May 2018, 851 (Curtis Pitt, Speaker).

56 Ibid.

57 Penalties and Sentences (Sentencing Advisory Council) Amendment Bill 2005 (Qld) cl 5; Planning and Development (Planning for Prosperity) Bill 2015 (Qld) cl 190; Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021 (Qld) cl 32.

58 Petroleum and Gas (Production and Safety) (Royalties and Cost of Living Relief) Amendment Bill 2022 (Qld) cl 3 ('Petroleum and Gas Amendment Bill').

59 Queensland, *Parliamentary Debates*, Legislative Assembly, 30 November 2022, 3749 (Curtis Pitt, Speaker). The Bill was also a revenue Bill.

In 2023, Dr MacMahon also introduced the Education (General Provisions) (Helping Families with School Costs) Amendment Bill 2023 (Qld) ('Education Amendment Bill').[60] The Bill provided that the Minister was to introduce a subsequent Bill to achieve the objective of ensuring that the cost of all 'instruction, administration and facilities' would be met by the State.[61] The costs were to include the costs of uniforms and any academic or extracurricular activities.[62] However, the committee that examined the Bill found that it was likely not an appropriation Bill.[63] This is because the Bill placed the obligation on the Minister to introduce a subsequent Bill to achieve the Bill's objectives.[64]

Earlier that year, Dr MacMahon had introduced the Planning (Inclusionary Zoning Strategy) Amendment Bill 2023 (Qld) ('Planning Amendment Bill') which provided for the Minister to introduce a subsequent Bill to provide for the compulsory acquisition of 25% of new dwellings constructed as part of a residential construction project or subdivision.[65] The Speaker ruled that a Bill that compulsorily acquires property without compensation would be a species of tax or charge upon the people and would therefore be a revenue Bill.[66] However, the Planning Amendment Bill was not a revenue Bill and there was no procedural impediment to the Bill proceeding because, by placing the obligation on the Minister, the Bill did not purport to raise the revenue itself.[67] As the Education Amendment Bill similarly placed an obligation on the Minister to introduce a subsequent Bill to achieve the appropriation, the committee considered that similar reasoning would likely apply and the Education Amendment Bill would be unlikely to be an appropriation Bill.[68]

In 2024, Mr Knuth introduced the Crocodile Control and Conservation Bill 2024 (Qld) ('Crocodile Control Bill') which was very similar to the previous Safer Waterways Bills introduced in 2017 and 2018.[69] One material difference between the Crocodile Control Bill and the earlier Bills was that the Crocodile Control Bill provided that the members of the advisory committee were not entitled to remuneration but were entitled to be paid expenses.[70] Speaker Pitt ruled that this

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60 Queensland, *Parliamentary Debates*, Legislative Assembly, 19 April 2023, 1039 (Amy MacMahon).

61 Education (General Provisions) (Helping Families with School Costs) Amendment Bill 2023 (Qld) cl 5.

62 Ibid.

63 Education, Employment, Training and Skills Committee, Queensland Parliament, *Education (General Provisions) (Helping Families with School Costs) Amendment Bill 2023* (Report No 3, April 2024) 9 [2.3.2] ('*Education Amendment Bill Report*').

64 Ibid.

65 Planning (Inclusionary Zoning Strategy) Amendment Bill 2023 (Qld) cl 3, inserting *Planning Act 2016* (Qld) ss 275ZK(1), 275ZL(1).

66 Queensland, *Parliamentary Debates*, Legislative Assembly, 11 May 2023, 1378.

67 Ibid 1378–9. While the Speaker considered that the approach may lead to a conflict with Westminster conventions of collective responsibility if the Minister was required to comply with the Bill, the Speaker considered that it was not his role to protect a Minister in their role as a Minister.

68 *Education Amendment Bill Report* (n 63) 9 [2.3.3].

69 Queensland, *Parliamentary Debates*, Legislative Assembly, 22 May 2024, 1736 (Shane Knuth).

70 Crocodile Control and Conservation Bill 2024 (Qld) cl 14(7)(b).

change meant that the Bill was in fact an appropriation Bill that required a message from the Governor.[71] In his ruling, the Speaker confirmed that, in his view, the only place the expenses could be paid from was existing appropriations.[72] Referring to Speaker Wellington's three-part test, Speaker Pitt indicated that while the Bill did not purport to confer any authority to pay an amount from the consolidated fund or extend the objects and purposes of an existing appropriation, the Bill did alter the destination of an existing appropriation.[73] On that basis, the Bill was ruled to include an appropriation that should not have been introduced without first being recommended by a message from the Governor.[74] The Bill was, therefore, ruled out of order and needed to be discharged or withdrawn from the notice paper.[75] On 21 August 2024, the member withdrew the Bill and introduced a new Bill (the Crocodile Control, Conservation and Safety Bill 2024 (Qld)) without the offending provision.[76]

D *Observations*

Four broad observations may be made about these examples. The first is that the treatment of these Bills has been mixed. The fact that some Bills have been ruled out of order while others have been allowed to stand despite containing very similar provisions is suboptimal from a democratic and equal treatment perspective. However, the consistency in this regard has improved since 2016 by subjecting all private members' Bills to greater scrutiny.

The second observation is that provisions that allow the executive to expend money have been ruled not to be appropriations if the expenditure is contingent on the exercise of executive discretion. It is unclear why a Bill that confers a discretion on the executive to spend money is not an appropriation. Indeed, the position seems to be at odds with the practice of other Westminster Parliaments. For example, *Erskine May* provides that a money resolution cannot be avoided in relation to a Bill that provides a discretion to a Minister to spend money on the basis that the discretion may not be exercised.[77] The UK position would also seem to be consistent with the test articulated in the 2016 Crown Law advice that a Bill or amendment that may potentially increase an existing appropriation or extend the purposes or objects of an existing appropriation or alter the destination of an

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71 Curtis Pitt, *Ruling by the Speaker of the Legislative Assembly, Hon Curtis Pitt, Regarding the Crocodile Control and Conservation Bill 2024 and the Absence of a Message from the Governor* (Tabled Paper No 5724T1110, 1 July 2024) 4 <https://documents.parliament.qld.gov.au/tp/2024/5724T1110-E4B0.pdf>.

72 Ibid 3.

73 Ibid.

74 Ibid 4.

75 Ibid.

76 Queensland, *Parliamentary Debates*, Legislative Assembly, 21 August 2024, 2597 (Shane Knuth).

77 Natzler and Hutton (n 11) [35.3]. See also Kate Ryan-Lloyd (ed), *Parliamentary Practice in British Columbia* (5th ed, 2020) 297–8 [12.5.3], quoting Saskatchewan, *Journals of the Legislative Assembly*, 18-1, vol 80 (23 December 1975) at 100–1 (John Edward Brockelbank, Speaker).

existing appropriation will itself be an appropriation.[78] If the difference between a provision being an appropriation or not is the existence of executive discretion, it seems possible that there may be opportunities for both government and private members to take advantage of the distinction to advance legislation that deals with money without requiring a message from the Governor.

The third observation is that the examples raise questions about when existing departmental appropriations can be relied upon as a source of funding. As noted above, it was thought to be permissible in 2016 to rely on the advice of the department administering the scheme that the funds for the new compensation scheme could be met from existing departmental appropriations and the scheme would not require a new appropriation from the consolidated fund.[79] However, Speaker Pitt's ruling on the Crocodile Control Bill demonstrates that potentially even small amounts cannot safely be met from an existing appropriation without risking altering the destination of existing funds.[80] This suggests that the quantum or the capacity of the department to meet the expenditure from an existing appropriation is not the relevant test. One argument for the difference could be that private members do not have the necessary visibility of departmental budgets or the necessary modelling about the effect of their amendments on departmental budgets to be able to safely make that case. However, the rulings of the Speakers in making such claims do not appear to descend into such detail.[81] The rulings seem to assume that any amount must be a diversion, whether or not that finding has been established as a matter of fact. As the High Court of Australia has noted, some appropriations are expressed at a high level of generality that makes it hard to determine their scope.[82] As a result, advice that an amount for a scheme could be met from a department's existing appropriations should be treated with caution.

The fourth observation is that there does not appear to have been any detriment to the position of executive under broader Westminster conventions of responsible government in allowing private members to introduce Bills that include appropriations. Private members are still members of Parliament. They are the elected representatives of their communities in the Legislative Assembly and are expected to represent their electorates. Without doubt, one of the rights of a member of Parliament is to introduce legislation for consideration by the Legislative Assembly. While Bills introduced by private members are unlikely to pass the Legislative Assembly unless they have the support of the government, they nonetheless should have the chance of their Bills receiving proper

78 Queensland, *Parliamentary Debates*, Legislative Assembly, 3 November 2016, 4107–8 (Peter Wellington, Speaker).

79 Ibid 4107.

80 The Crocodile Control and Conservation Bill 2024 (Qld) provided for the expenses of at least seven members of an advisory committee to be paid: at cls 14(2), (7)(b).

81 See, eg, Queensland, *Parliamentary Debates*, Legislative Assembly, 14 June 2017, 1565–6 (Peter Wellington, Speaker).

82 *Pape v Federal Commissioner of Taxation* (2009) 238 CLR 1, 112 [317] (Hayne and Kiefel JJ).

consideration. It is then a matter for the Legislative Assembly to determine whether to pass or reject the Bills.

In the case of the Bills proposing compensation or financial assistance schemes mentioned above, there was no clear detriment to the executive of allowing private members to introduce Bills that included appropriations. In each case, the Bills were either defeated at second reading or did not proceed.[83]

The key question is how to balance the rights of members to introduce legislation that affects their jurisdiction without putting public finances at risk. This question is one that will need to be answered by each jurisdiction, but one comparable approach is the one now taken by the Canadian House of Commons.

E *Delaying Rulings on Private Members' Appropriation Bills?*

Canada has recognised a principle of the financial initiative of the Crown since 1840 when it was included in the *Union Act 1840* (Imp) 3 & 4 Vict, c 35.[84] According to Joan Small, the relevant section was introduced to remedy the otherwise chaotic process that ensued when 'unrestricted powers of voting public money … [was] lodged in the hands of an Assembly'.[85] The relevant principle is now included in ss 53 and 54 of the Canadian Constitution.[86] The relevant constitutional provisions state:

> Appropriation and Tax Bills
>
> 53 Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.
>
> Recommendation of Money Votes
>
> 54 It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.[87]

Section 54 of the Canadian Constitution is very similar to s 18 of Queensland's *Constitution Act*.

According to Canada's *House of Commons Procedure and Practice*, before 1994 any Bill that appeared to infringe the financial initiative of the Crown was ruled

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83 Legislative Assembly of Queensland, *Bills Register 2005* (Issue No 61, 8 December 2005) 4; Legislative Assembly of Queensland, 'Bills Register: 55th Parliament' (Web Page) <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Bills-and-Legislation/Bills-previous-Parliaments/55th-Parliament>.

84 *Union Act 1840* (Imp) 3 & 4 Vict, c 35, s 57; Joan Small, 'Money Bills and the Use of the Royal Recommendation in Canada: Practice versus Principle?' (1995) 27(1) *Ottawa Law Review* 33, 48.

85 Small (n 84) 48, quoting Charles Lucas (ed), *Lord Durham's Report of the Affairs of British North America* (Clarendon Press, 1912) vol 2, 92–3.

86 *Constitution Act 1867* (Imp) 30 & 31 Vict, c 3, ss 53–54.

87 Ibid.

out of order.[88] In 1994, the House of Commons changed its standing orders so that a message from the Governor General does not have to be provided when the Bill is introduced.[89] Instead, the message from the Governor General only has to be provided before the Bill is read a third time.[90]

From 2003, further assistance was provided to members by legislative counsel and procedural clerks to assist them to remedy their Bills so as not to infringe the financial initiative of the Crown.[91] In cases where a question about whether the Bill infringes the financial initiative of the Crown exists, the Speaker invites the member sponsoring the Bill at an early stage to explain why they believe the Bill requires royal recommendation or not.[92] If necessary, the Speaker makes a ruling about the need for royal recommendation only at a later stage in the legislative process. If a Bill requires royal recommendation and the message from the Governor General is not provided by the time the Bill is ready for a third reading, the Speaker must stop the proceedings and rule the Bill out of order.[93]

The idea underlying these procedures relates to the rights of members. Members are entitled to introduce legislation, but there are few opportunities for them to do so. As a result, the Speaker seeks to give members every opportunity to correct any procedural irregularities their Bill might contain.[94] Allowing private members' Bills to be considered by the House of Commons in the ordinary way is also consistent with the principle that Bills proposing expenditure or taxation should be 'given the fullest possible discussion'[95] or at least be discussed on multiple occasions.[96] This has meant adopting novel procedures and changing the practices of the House of Commons to be more accommodating.

The practice of waiting until just before the third reading to rule a Bill out of order represents a more equitable balance between the rights of private members to have their Bills heard and the responsibility of the executive to maintain control of public finances. Many private members wish to advocate for laws and policies that have a financial effect. Waiting until later in the legislative process to rule a Bill out of order gives the private member sponsoring the Bill the ability to ventilate the member's concerns with the current state of the law and to propose a solution to address those concerns. Those concerns and the proposed solution can then be examined by a parliamentary committee. Through the committee process, members of the public are also able to have their say about the private member's Bill. Giving a private member the ability to introduce their Bill, regardless of the Bill's content, and to have it considered by the House is also

88 Bosc and Gagnon (n 6) chs 18, 21.
89 Ibid ch 18.
90 Ibid. The practice assumes that a Minister of the Crown may provide a royal recommendation.
91 Ibid.
92 Ibid.
93 Ibid.
94 Ibid.
95 Ibid.
96 Natzler and Hutton (n 11) [33.23].

more respectful to the member and the Parliament than summarily ruling a Bill out of order at an early stage.

The practice of allowing and then ruling out only those appropriation Bills at third reading that have not been recommended by the Governor General has now been in place in the Canadian House of Commons for just over 30 years. During that time, more private members' Bills have reached third reading.[97] The practice has apparently not caused significant inconvenience for the Government of Canada. In this respect, it is argued that Queensland, and potentially other Australian jurisdictions, should consider adopting a similar approach.

F *Arguments Against Reform*

Two potential arguments may be put against reforming the process to allow for private members' Bill to be discussed without royal recommendation. The first is that changing the timing of when the Bill is ruled out of order does not change the underlying challenge of consistently identifying whether a Bill contains an appropriation. However, while it is true that there is nothing inherent in the timing that changes the nature of that question, the house of Parliament has the opportunity to consider if it wishes the Bill to progress on multiple occasions. This also means that the government has multiple opportunities to defeat the Bill at an earlier stage. If the Bill is defeated at an earlier stage, the question of whether the Bill contains an appropriation never arises for the Speaker's consideration.

The second argument is that delaying ruling a private member's Bill out of order has resource implications for the Parliament because both committee and chamber time could be more productively spent examining or debating legislation that has a better chance of becoming law. This argument could, of course, be applied to all private members' Bills. The consequence of adopting such an economic approach would be that Parliaments would put as few resources as possible towards the consideration of private members' Bills. If resourcing is the issue, then the allocation of additional resources would be a more democratic response than to diminish the opportunities for private members to have their Bills considered by committees.

IV Revenue Bills

As noted in Part II, the practice at Westminster is that only a Minister of the Crown may move a Ways and Means resolution and seek to introduce a revenue Bill. This is a practice that is maintained by usage and is not supported by standing or other orders of the British House of Commons.

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97 The Canadian House of Commons does, however, require that taxation Bills are brought in after a Ways and Means motion moved by a Minister: Bosc and Gagnon (n 6) chs 18, 21.

Recently, private members in Queensland and the Australian Capital Territory have had revenue Bills ruled out of order on the basis that the Bills contravened the convention of the financial initiative of the Crown. Both private members dissented from the ruling and invited their respective chambers to decide for themselves whether the practice should be allowed. This part of the article will consider the Big Bank Levy (COVID-19 Health Response) Bill 2021 (Qld) from Queensland and the Payroll Tax Amendment Bill 2023 (ACT) from the Australian Capital Territory.[98] I will argue that the financial initiative of the Crown was invoked in both cases to prevent the private members from having their Bills considered by their respective legislatures and that the rulings made in both cases were constitutionally questionable.

A *Big Bank Levy (COVID-19 Health Response) Bill 2021 (Qld)*

On 27 October 2021, the Member for South Brisbane, Dr MacMahon of the Queensland Greens, introduced the Big Bank Levy (COVID-19 Health Response) Bill 2021 (Qld) ('Big Bank Levy Bill').[99] The Bill proposed a 0.05% levy on the liabilities of the five biggest banks operating in Queensland.[100] Speaker Pitt ruled the Bill was 'clearly' a revenue Bill.[101] As a result, the Speaker ruled it out of order and discharged the Bill from the Notice Paper.[102]

The *Queensland Parliamentary Procedures Handbook* sets out that there are five sources of laws and rules that govern how the Queensland Parliament works: statute, standing orders, sessional and other orders of the House, rulings of the Chair, and custom and practice.[103] Where none of those provide a guide as to the appropriate practice to be adopted, the Speaker may have regard to the practice of other Parliaments operating under the Westminster system to determine the appropriate procedure.[104] Speaker Pitt's ruling accepted that there was no statute or standing order that prevented a private member from proposing a revenue measure.[105] In relation to standing orders, the Speaker examined the history of the standing orders between 1860 and 2011. From 1860 until the 1990s, both

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98 Other revenue Bills introduced in Queensland included the Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022 (Qld) ('Land Tax Amendment Bill') and the Petroleum and Gas Amendment Bill (n 58).

99 Queensland, *Parliamentary Debates*, Legislative Assembly, 27 October 2021, 3301 (Amy MacMahon).

100 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3553 (Curtis Pitt, Speaker).

101 Ibid.

102 Ibid.

103 Queensland Parliament, *Queensland Parliamentary Procedures Handbook* (February 2024) 4. Other sources include a sixth source: the practice and procedure of other Parliaments: see, eg, Ethics Committee, Queensland 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* (Report No 216, October 2023) 7 [44].

104 *Legislative Assembly of Queensland Standing Rules and Orders* (n 1) standing order 2(2).

105 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3553 (Curtis Pitt, Speaker).

appropriation and revenue Bills needed to be introduced in, and by leave of, either the Committee of Supply (for appropriations) or the Committee of Ways and Means (for revenue).[106] Amendments to the standing orders in 2004 allowed for a Minister, in accordance with a message from the Governor, to introduce an appropriation or revenue Bill.[107] That standing order was removed in 2011 when the Parliament's committee system was overhauled.[108] It was replaced with standing order 174, which more closely reflected s 68 of the *Constitution of Queensland*.[109] Section 68 and standing order 174 now require a message only for appropriation Bills, not for revenue Bills.[110]

In the absence of a written source of law or practice, the Speaker relied on convention relating to the revenue aspect of the financial initiative of the Crown.[111] The Speaker quoted from *Erskine May* to explain the historical basis for the constitutional rule that a demand for supply from the Crown preceded a grant of supply.[112] According to the Speaker, the financial initiative of the executive was of such import that the Speaker can and should rule out of order a Bill 'that breaches such a fundamental convention and principle'.[113]

Dr MacMahon did not dispute that the Big Bank Levy Bill was a revenue Bill. However, she challenged the Speaker's ruling that a private member could not introduce a revenue Bill. On 1 December 2021, Dr MacMahon moved a motion dissenting from the Speaker's ruling that the Big Bank Levy Bill was out of order.[114] During her contribution to the debate on the dissent motion, Dr MacMahon tabled advice she had obtained from former Supreme Court judge Alan Wilson QC and Professor Gerard Carney, a former professor of constitutional law at the University of Queensland, and separate advice obtained from Professor Graeme Orr, a professor from the University of Queensland with a research interest in the law of politics.[115] Each advice concluded that there was no constitutional impediment, rule of statute or order of the Legislative Assembly that would prevent a private member from introducing a revenue Bill.[116]

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106 Ibid.

107 Ibid; *Legislative Assembly of Queensland Standing Rules and Orders* (n 1) standing order 165(3).

108 Queensland, *Parliamentary Debates*, Legislative Assembly, 16 June 2011, 1920, 1936; Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3554 (Curtis Pitt, Speaker).

109 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3554 (Curtis Pitt, Speaker).

110 Ibid.

111 Ibid.

112 Ibid, quoting Natzler and Hutton (n 11) [33.2].

113 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3554 (Curtis Pitt, Speaker).

114 Queensland, *Parliamentary Debates*, Legislative Assembly, 1 December 2021, 3941 (Amy MacMahon).

115 Ibid 3942.

116 Letter from Alan Wilson and Gerard Carney to Michael Berkman, 29 November 2021 <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5721t2035/5721t2035.pdf>; Letter from Graeme Orr to Curtis Pitt and Neil Laurie, 29 November 2021, 2 <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5721t2035/5721t2035.pdf>.

The advice tabled by Dr MacMahon briefly prosecuted two arguments, both of which stem from the *Constitution of Queensland*. The Wilson–Carney advice sought to distinguish between the appropriation and revenue provisions of the *Constitution of Queensland*, ss 65 and 68.[117] Section 65 relevantly provides:

> **65 Requirement to pay tax, impost, rate or duty**
>
> A requirement to pay a tax, impost, rate or duty of the State must be authorised under an Act.[118]

Mr Wilson QC and Professor Carney considered that there was a 'substantial argument' that the Legislative Assembly should be able to consider non-government taxation Bills on the basis that s 65, because it only provides that the tax, impost, rate or duty must be authorised under an Act, intended to leave to the Legislative Assembly the ability to determine Bills relating to taxation.[119] This could be contrasted with s 68 which explicitly requires a message from the Governor in relation to appropriation Bills. The clear implication is that the financial initiative of the Crown applies in relation to appropriation Bills, but a tax, impost, rate or duty is only required to be authorised under an Act of Parliament. On Wilson and Carney's reading, the text of the *Constitution of Queensland* does not suggest that taxation Bills are intended to be reserved for the initiative of the executive.[120] Rather, it would appear to be open to a private member to introduce legislation that included a taxation measure for the consideration of the Legislative Assembly.[121] It would then be a matter for the Legislative Assembly to decide whether to pass or to reject the Bill.

The advice by Professor Orr traversed similar territory. Professor Orr concluded that the Legislative Assembly could consider a private member's Bill in relation to taxation.[122] He considered the position that applied in the United Kingdom and in the Commonwealth Parliament, the development of the *Constitution of Queensland* and the fact that s 18 of the *Constitution Act* included '"any ... tax or impost" in the class of Bills reserved solely to government initiative'.[123] Against that background, the drafters of the *Constitution of Queensland* could not have been unaware of the option to provide for executive control of revenue Bills. The absence of this option is, in Professor Orr's analysis, constructive and compelling evidence that Parliament did not intend to reserve to the executive the ability to initiate revenue Bills.[124]

The absence of any restriction in the standing orders adopted by the Legislative Assembly of Queensland also potentially supports the argument that

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117 Wilson and Carney (n 116).
118 *Constitution of Queensland* (n 2) s 65.
119 Wilson and Carney (n 116).
120 Ibid.
121 Ibid.
122 Orr (n 116) 2.
123 Ibid.
124 Ibid.

the Legislative Assembly did not intend there to be any restriction on the initiation of taxation Bills by non-government members.[125] As noted above, the Speaker acknowledged that between 2004 and 2011 the standing orders of the Legislative Assembly explicitly permitted a Minister to move a Bill dealing with taxation 'in accordance with' a message from the Governor.[126] Between 2004 and 2011, standing orders 165(3) and (4) provided:

> (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.[127]

By contrast, standing order 174, adopted in 2011, closely follows s 68 but does not include any references to Bills proposing taxation or explicitly restrict to Ministers the right to initiate appropriation or taxation Bills.[128]

Professor Orr also made a second argument based on the practicalities of public finances: there are differences between appropriation Bills and revenue Bills. In short, governments require supply, and confidence in the government is tied to its ability to secure that supply.[129] Also, the passage of a Bill that increased taxation against the objections of the executive might be embarrassing to the government but would not imperil the finances of the State in the way an unwanted appropriation Bill might.[130] The result would be that the executive would have more money in the consolidated fund. The issue does not generally arise in relation to Bills that seek to decrease taxation as it is generally in order for a member to move a Bill or an amendment seeking the alleviation of taxation.[131]

With respect to the former Speaker, those arguments are compelling. While one can agree that it was open to the Speaker to refer to and rely on the financial initiative of the Crown to support his ruling, it was not the only option available. When the Member for South Brisbane introduced the Big Bank Levy Bill, there was a reasonable constitutional argument that the Legislative Assembly did not have a clearly established practice that needed to be followed. Therefore, it was open to the Legislative Assembly to declare for itself whether it wished to empower

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125 Ibid.

126 Queensland, *Parliamentary Debates*, Legislative Assembly, 17 November 2021, 3553–4 (Curtis Pitt, Speaker).

127 *Legislative Assembly of Queensland Standing Rules and Orders* (n 1). Whether the requirement to obtain a message from the Governor in relation to taxation matters was intended to be an additional requirement or one that sought to reflect the constitutional requirement is unclear.

128 Queensland, *Parliamentary Debates*, Legislative Assembly, 16 June 2011, 1915–36. See also *Legislative Assembly of Queensland Standing Rules and Orders* (n 1) standing order 174.

129 Orr (n 116) 3.

130 Ibid.

131 Natzler and Hutton (n 11) [36.18].

members to put forward their own proposals for the consideration of the Legislative Assembly or to rely on the constitutional convention that reserved to the executive the ability to introduce revenue measures.

Unsurprisingly, the government supported the Speaker in his ruling and did not seek to engage in a principled debate about the constitution and the practice of the Legislative Assembly.[132] Despite the principle involved, neither the Opposition nor any other member of the crossbench other than Mr Berkman — Dr MacMahon's Queensland Greens colleague — sought to contribute to the debate.[133] As a result, a precedent — that a private member's Bill seeking to impose or increase revenue will breach the financial initiative of the Crown — has been established and is likely to be followed until the House makes a different decision.[134] An important part of that ruling is that it applies in relation to a Bill that seeks to impose or increase revenue. It has nothing to say about Bills that seek to decrease revenue.

B *Payroll Tax Amendment Bill 2023 (ACT)*

In 2023, the Leader of the Opposition, Ms Lee, introduced the Payroll Tax Amendment Bill 2023 (ACT) in the Legislative Assembly for the Australian Capital Territory ('ACT Assembly').[135] The Bill sought to exempt medical centres from paying payroll tax on wages paid or payable to general practitioners under a contract for services.[136] Similarly to Queensland, there was no statute or standing order of the ACT Assembly that explicitly prohibited non-executive members of the Assembly from initiating revenue Bills.[137] Unlike Queensland, the ACT Assembly had debated and agreed to a motion in 1995 in the following terms:

> That this Assembly reaffirms the principles of the Westminster system embodied in the 'financial initiative of the Crown' and the limits that that initiative places on the non-executive Members in moving amendments other than those to reduce items of proposed expenditure.[138]

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[132] Queensland, *Parliamentary Debates*, Legislative Assembly, 1 December 2021, 3943–51.

[133] Ibid 3949–51 (Michael Berkman).

[134] The ruling was applied by the Speaker to discharge Dr MacMahon's Land Tax Amendment Bill (n 98) and was referred to in the Speaker's ruling on the Planning (Inclusionary Zoning Strategy) Amendment Bill 2023 (Qld): Queensland, *Parliamentary Debates*, Legislative Assembly, 26 October 2022, 3040–1 (Curtis Pitt, Speaker); Queensland, *Parliamentary Debates*, Legislative Assembly, 11 May 2023, 1378.

[135] Australian Capital Territory, *Parliamentary Debates*, Legislative Assembly, 29 August 2023, 2281 (Elizabeth Lee, Leader of the Opposition).

[136] Payroll Tax Amendment Bill 2023 (ACT) cl 4.

[137] The *Australian Capital Territory (Self-Government) Act 1988* (Cth) s 65(1) provides that a proposal for the appropriation of public money of the territory must not be proposed in the Assembly except by a Minister. Section 65 does not relate to revenue Bills. See also Letter from Tom Duncan to Joy Burch, 30 August 2023 <https://www.parliament.act.gov.au/___data/assets/pdf_file/0008/2354705/8299445c1b26f058d74da611baa856e663acd6db.pdf>.

[138] Legislative Assembly for the Australian Capital Territory, *Minutes of Proceedings* (Minutes No 28 of 1995, 23 November 1995) 202–3.

On 6 March 2008, the ACT Assembly adopted standing order 201A, which was based on this motion.[139] To understand its import, it is necessary to understand the standing order in context. Standing orders 200–201A provide:

> **Money proposals submitted — without notice**
>
> 200 An enactment, vote or resolution for the appropriation of the public money of the Territory must not be proposed in the Assembly except by a Minister. Such proposals may be introduced by a Minister without notice.
>
> **Limitations on amendments**
>
> 201 A Member, other than a Minister, may not move an amendment to a money proposal, as specified in standing order 200, if that amendment would increase the amount of public money of the Territory to be appropriated.
>
> 201A An amendment in accordance with standing order 201 must be in accordance with the resolution agreed to on 23 November 1995 – ie 'That this Assembly reaffirms the principles of the Westminster system embodied in the "financial initiative of the Crown" and the limits that that initiative places on non-executive Members in moving amendments other than those to reduce items of proposed expenditure.'[140]

The Clerk's advice to the Speaker of the ACT Assembly highlights that the 1995 motion was passed in the context of controversy about the permissibility of non-executive members seeking to increase items in an appropriation Bill or seeking to add conditions about what an appropriation could be used for.[141] The resolution and the resulting standing order are clearly directed to amendments to appropriation Bills. The standing order does not explicitly prohibit private members seeking to legislate on revenue matters.[142] The Clerk also noted that there was an argument that the phrase 'the principles of the Westminster system embodied in the "financial initiative of the Crown"' could be said to embrace the Westminster practice, outlined above, that the initiation of taxation should also be within the sole initiative of Ministers.[143] This is the position in the House of Representatives, where standing order 179 reserves all appropriation and taxation to executive initiation.[144]

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139 Legislative Assembly for the Australian Capital Territory, *Minutes of Proceedings* (Minutes No 132 of 2008, 6 March 2008) 1388–9, adopting Standing Committee on Administration and Procedure, Legislative Assembly for the Australian Capital Territory, *Review of Standing Orders and Other Orders of the Assembly* (Report No 2, December 2007) 55.

140 Legislative Assembly for the Australian Capital Territory, *Standing Orders and Continuing Resolutions of the Legislative Assembly for the Australian Capital Territory* (2 September 2025) standing orders 200–201A ('*ACT Standing Orders*').

141 Duncan (n 137) 2 [10].

142 Ibid 2 [9]; David Skinner and Tom Duncan (eds), *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory* (Legislative Assembly for the Australian Capital Territory, 2nd ed, 2022) 406 [12.180].

143 Duncan (n 137) 2 [9], 4 [14].

144 *House of Representatives Standing Orders* (n 1) standing order 179.

There was also a countervailing argument that the ACT Assembly had a practice of revenue Bills being introduced by non-executive members. At least four previous revenue Bills had been introduced without objection: the Utilities (Network Facilities) Repeal Bill 2007 (ACT); Utilities (Network Facilities) Repeal Bill 2008 (ACT); Payroll Tax Amendment Bill 2013 (ACT) and Rates (Fire and Emergency Services Levy Repeal) Amendment Bill 2008 (ACT).[145]

A further matter that was not canvassed by the Speaker or the Clerk's advice was whether a Bill seeking to alleviate taxation would infringe the financial initiative of the Crown. Section 65(2) of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) and standing orders 201 and 201A recognise that amendments to reduce appropriations have been permitted and do not offend the financial initiative of the Crown. Similarly, it has long been recognised that a private member may move to reduce an amount of taxation or to reduce the amount of a charge.[146] The alleviation of taxation is explicitly included in *Erskine May* as an example of a matter that does not need to be initiated by a Ways and Means resolution and is not subject to financial procedure.[147] This has also been recognised in other Parliaments, such as the Canadian House of Commons.[148] This is the case even though the reduction of existing taxation has the potential to have an equal or greater effect on public finances than the raising of additional taxation.

Ultimately, the Clerk advised that, in view of the mixed practice and the absence of clear procedural codification, it was a matter for the Speaker to decide the preferred course.[149] The Speaker ultimately ruled the Payroll Tax Amendment Bill 2023 (ACT) out of order, relying on standing order 275 which provides that in the absence of established practice, the practice prevailing in the House of Representatives should be applied.[150] As noted above, the practice in the House of Representatives is more restrictive and explicitly provides that only a Minister may impose, increase or decrease a tax or duty, or change the scope of any charge.[151]

Like Dr MacMahon in Queensland, Ms Lee dissented from the ruling of the Speaker and was ultimately unsuccessful.[152] However, unlike the Queensland example, members were highly exercised about the principles involved and the chamber seemed to be in agreement that the practice needed to be examined and

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145 Duncan (n 137) 4 [17].
146 McKay (n 17) 901. See also Queensland, Standing Orders Committee, *Proposed Standing Orders* (Report, 26 June 1860) standing order 277.
147 McKay (n 17) 901.
148 Bosc and Gagnon (n 6) ch 18.
149 Duncan (n 137) 5.
150 Australian Capital Territory, *Parliamentary Debates*, Legislative Assembly, 31 August 2023, 2458 (Joy Burch, Speaker); *ACT Standing Orders* (n 140) standing order 275.
151 *House of Representatives Standing Orders* (n 1) standing order 179.
152 Australian Capital Territory, *Parliamentary Debates*, Legislative Assembly, 31 August 2023, 2463.

the standing orders clarified in relation to the practice.[153] The debate seemed to echo the Clerk's advice:

> 19 The Assembly is the master of its destiny on these questions, and I remain of the view that there would be advantages in the Assembly adopting a clear procedural view on the ambit, if any, of non-executive members' legislative initiative in these matters. This would assist the Speaker (and all members) in future rulings and provide certainty.[154]

C *Observations*

In both the Queensland and Australian Capital Territory examples, the Speakers struggled to clearly identify a prohibition on private members' introducing revenue Bills based on statute or the rules or practices of their respective Assemblies. In each case, the Speaker relied, either directly or indirectly, on the constitutional convention of the financial initiative of the Crown.

In each case, the black-letter constitutional argument for ruling a private member's revenue Bill out of order was weak and the history, practice and limits of the convention were murky.

On one view, the convention exists to support the executive's management and administration of public finances. The executive is responsible for the management and administration of public finances and it is in the executive's interest that private members are precluded, as much as possible, from introducing or amending legislation in a way that interferes with their management or administration. However, that principle, if taken to its logical extreme, could effectively preclude all private members' Bills as most of these Bills would incur some cost. It also minimises the role of members of Parliament.

On the other hand, the convention developed as a form of parliamentary control over finance. This is perhaps a more nuanced view that recognises that the convention is not designed to serve the needs of the executive, but an accretion of practices from a particular time in history that balanced competing views about taxation, parliamentary administration and the relationship between the Parliament and the Crown. Some of these factors remain relevant, others are less important than they may have been historically.

The mixed practice in Queensland and the Australian Capital Territory on the question of whether private members can introduce revenue Bills should ultimately be resolved by each respective legislature. This will provide certainty to members and Speakers alike. However, it is argued there are two main reasons

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153 Ibid 2459–60 (Andrew Barr, Chief Minister), 2460–1 (Shane Rattenbury, Attorney-General); 2461–2 (Elizabeth Lee, Leader of the Opposition).

154 Duncan (n 137) 5. A report handed down the same month found that amendments to those standing orders were beyond the scope of the inquiry: Standing Committee on Administration and Procedure, Legislative Assembly for the Australian Capital Territory, *Review of the Standing Orders and Continuing Resolutions of the Tenth Assembly: Volume 1* (Report No 10, August 2023) 48.

why Legislative Assemblies should allow private members to introduce revenue Bills.

First, it is consistent with the existing constitutional provisions. Section 65 of the *Constitution of Queensland* provides that a requirement to pay a tax, impost, rate or duty of the State must be authorised under an Act. In the Australian Capital Territory, s 57(2) of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) provides that '[t]he receipt, spending and control of public money of the Territory shall be regulated as provided by enactment'. Section 65 of that Act refers only to the appropriation of public money. Neither constitution reserves to Ministers a right of initiation in relation to revenue Bills. A rule to the contrary imposes a limit that is not grounded in the constitutional text. A rule to the contrary also infringes a member's right to introduce legislation.[155] Therefore, the more constitutionally conservative approach may be to permit private members to introduce revenue Bills on the basis that such a practice is consistent with the constitutional text.[156]

The second reason is that allowing members to introduce revenue matters is more respectful of the rights of members and the institution of Parliament. If a majority of the members of the House consider that more taxation should be paid, then the will of the House should be respected, even if it is not the preferred position of the executive. This conflicts with the principle that the executive should not be required to answer for fiscal decisions it did not make.[157] However, the rule is not absolute. If a majority of members consider that taxation should be decreased, this amendment (putting the recent Legislative Assembly for the Australian Capital Territory ruling to one side) would appear to be in order even though it will evidently affect public finances. Government revenues fluctuate from year-to-year and while the decrease in revenue may be inconvenient for the executive, it would not be an insurmountable problem. The benefit for private members and for the Parliament in allowing private members to introduce revenue Bills is that these Bills can be subject to committee scrutiny and to public consultation. The committee process is useful both for members to learn about the policy proposal underlying the Bills and to understand how the policy may be received by or impact the community if it were to be passed. Except for hung Parliaments, in a unicameral Parliament there would seem to be few detriments in allowing the Bills to move through the normal legislative process.

D *A Financial Veto?*

Another possible answer to the question of how to balance the duty of the executive to manage public finances with the rights of members to propose

155 Ethics Committee (n 103) 8 [51].
156 Wilson and Carney (n 116).
157 Wilson (n 5) 540 [42.3].

financial legislation can be found in the financial veto procedure used in New Zealand.

Parliamentary Practice in New Zealand explains that the financial veto was introduced in relation to concerns that were similar to those canvassed above in Queensland and the Australian Capital Territory:

> The Government's financial veto was introduced in 1996. It resulted from dissatisfaction with the operation of the House's previous appropriation rule, whereby bills or amendments involving an appropriation of public money were ruled out of order by the Speaker or Chairpersons at various stages of the legislative process. It was felt that this rule operated capriciously, protecting some expenditure proposals but not others and having no application at all regarding revenue. Where it did operate, it could operate too harshly, preventing members from moving proposals that even incidentally involved small amounts of expenditure. The appropriation rule therefore did not in any event protect the Crown's overall financial position, and was a source of frustration in relation to worthwhile projects involving small amounts of expenditure.[158]

To address these concerns, New Zealand's House of Representatives adopted standing orders to permit the government to veto a Bill, amendment or motion that the government 'certifies it does not concur in because, in its view, the bill, amendment, or motion would have more than a minor impact on the Government's fiscal aggregates if it became law'.[159] A financial veto certificate may only be presented by a Minister in the House (or a committee of the whole House) in relation to a Bill awaiting its third reading and if, in its view, the Bill, amendment or motion would have more than a minor impact on the government's fiscal aggregates.[160] The government is required to particularise the nature of the impact of the Bill, amendment or motion on the aggregates and to give a reason for not concurring with the Bill, amendment or motion in the certificate.[161] If a financial veto certificate is given in relation to a Bill, the Speaker will not put any question for the third reading in relation to the Bill.[162]

The advantage of the financial veto is that it provides greater freedom to private members to propose Bills with financial implications and have them considered by the House and by a committee. However, the price for that freedom is that the executive is given a veto with a very broad discretion in relation to Bills, amendments or motions that, in the government's view, may have an impact on public finances. This means that amendments to reduce government expenditure or taxation that had not historically been subject to financial procedure could be subject to executive veto. The broad discretion given to the government also

[158] Ibid 541.

[159] House of Representatives (NZ), *Standing Orders of the House of Representatives* (9 September 2023) standing order 334(1) ('*NZ House of Representatives Standing Orders*'). Standing orders 334(2) and 335(2) similarly deal with changes in votes in a budget Bill.

[160] Ibid standing orders 335(3), 336(1).

[161] Ibid standing order 335(1).

[162] Ibid standing order 336(3); Wilson (n 5) 543.

potentially invites examination of the fiscal impact of Bills that might have incidental cost implications but would not otherwise be considered appropriation or revenue Bills.

In this regard, concern about executive discretion in the use of the financial veto is misplaced.[163] As New Zealand's experience has shown, governments are more likely to vote down measures they disagree with than to veto them.[164] A government is only likely to veto a measure if it does not otherwise have the votes to defeat it or if, for political reasons, it would prefer not to have a vote in relation to the Bill, amendment or motion. If a government has a clear majority, the financial veto might change the procedure by which the Bill, amendment or motion is lost, but not the overall result. If a government does not have a clear majority, widespread use or reliance on the veto may invite questions about whether the government continues to enjoy the confidence of the House. In each case, the government is required to justify its use of the financial veto in the certificate and the financial veto certificate may be debated when the Bill, amendment or motion comes before the House.[165] This would appear to be preferable to having a Speaker rule a Bill out of order without debate and in circumstances where the Speaker's ruling creates a precedent that may hinder future private members from presenting new Bills before Parliament.

V Conclusion

Legislative counsel may be tasked with drafting and giving advice to private members about the Bills they intend to introduce.[166] When drafting a Bill for a private member, it is incumbent on the drafter to provide the member with relevant advice if the Bill is likely to be ruled out of order. It is then up to the member to decide whether to proceed with drafting the Bill.[167] The job of drafters, advisors, parliamentary staff and Speakers is made much easier if there are clear rules with clear rationales about what Bills will and will not be permitted.

In this article, I have argued that private members should be permitted to introduce appropriation and revenue Bills because it is more respectful to the rights of members and the institution of Parliament.

It also seems likely that private members will continue to press their claim that they are entitled to introduce appropriation and revenue Bills. In this article, I have canvassed recent concerns in two jurisdictions about the application of the convention. During Queensland's 57th Parliament, which ended in October 2024,

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163 See, eg, Thomas Morrisey, 'A Self-Imposed Restriction: The Constitutional Conundrum of the Government's Financial Veto' (LLB (Honours) Thesis, Victoria University of Wellington, 2021) 13.

164 Wilson (n 5) 543; Mary Harris, Submission No 140414 to Standing Orders Committee, New Zealand House of Representatives, *Review of Standing Orders* (April 2014) 12.

165 *NZ House of Representatives Standing Orders* (n 159) standing order 335(4).

166 In Queensland, see the *Legislative Standards Act 1992* (Qld) s 7(b).

167 See, eg, the copies of correspondence between Dr MacMahon and the Office of the Queensland Parliamentary Counsel extracted in Ethics Committee (n 103) 42–4.

Dr MacMahon introduced at least three Bills that were ruled out of order for being either appropriation or revenue Bills (or both).[168] As a result, Dr MacMahon was referred to the Ethics Committee of the Legislative Assembly for wilfully disobeying an order of the House.[169] The committee made a finding of contempt against Dr MacMahon for wilfully disobeying an order of the House and recommended that she apologise to the House.[170] The committee also recommended that the Committee of the Legislative Assembly consider an amendment to standing orders to clarify the position of the Legislative Assembly on the question of revenue Bills.[171] Dr MacMahon refused to apologise to the House and was suspended from the precinct for a day.[172] In part, Dr MacMahon refused to apologise because it was her position, and the position of the Queensland Greens, that private members should be permitted to introduce appropriation and revenue Bills.[173] At the time of writing, Queensland Greens have not attempted to prosecute that argument in the 58th Parliament.[174]

The issue is also likely to remain a difficult one for Speakers to manage. In 2025, the Leader of the Opposition, Mr Miles, introduced the Locking in Cost of Living Support (50 Cent Fares Forever) Amendment Bill 2025 (Qld), which provided that the chief executive must set the fare for particular public transport services at 50 cents or less.[175] Before ruling on the Bill, the Speaker requested submissions from both Mr Miles and the relevant Minister about whether the Bill was an appropriation Bill.[176] While the Bill was eventually ruled out of order, the Speaker requested the submissions to assist him because he considered that it was 'important that [the Speaker] understand the detailed effect of the bill within the context of existing and forward appropriations and the complexities of the fare system affected'.[177] This highlights the challenges of determining whether a Bill includes an appropriation and potentially points to an appetite for reform in this area.

Finaly, in this article I have also canvassed solutions from two constitutionally similar jurisdictions, Canada and New Zealand, that found ways to provide a better balance between the rights of members to introduce legislation and the duty of the executive to manage public finances. In unicameral Parliaments with strong

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168 Big Bank Levy (COVID-19 Health Response) Bill 2021 (Qld); Land Tax Amendment Bill (n 98); Petroleum and Gas Amendment Bill (n 58).

169 Queensland, *Parliamentary Debates*, Legislative Assembly, 1 December 2022, 3819 (Curtis Pitt, Speaker).

170 Ethics Committee (n 103) 16, 18.

171 Ibid 18 [143].

172 Queensland, *Parliamentary Debates*, Legislative Assembly, 14 November 2023, 3464, 3467.

173 Ethics Committee (n 103) 34, 41.

174 This may be because Dr Amy MacMahon was not returned as the Member for South Brisbane at the 2024 General State election.

175 Locking in Cost of Living Support (50 Cent Fares Forever) Amendment Bill 2025 (Qld), cl 4.

176 Queensland, *Parliamentary Debates*, Legislative Assembly, 20 February 2025, 184 (Pat Weir, Speaker).

177 Ibid; Queensland, *Parliamentary Debates*, Legislative Assembly, 13 March 2025, 407 (Pat Weir, Speaker).

majorities there is likely to be little impetus for giving private members greater latitude. However, this article has shown that deciding Bills on financial grounds at the third reading stage is more respectful to both members and the institution of Parliament. To support a parliamentary democracy based on the rule of law, the cost of allowing private members free expression is worth it.