

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Inquiry into the Corporations Amendment

(Improving Outcomes for Litigation Funding Participants) Bill 2021

2021 - 2022

Division: Market Conduct Division
Topic: Advice on constitutionality
Reference: Spoken (17 January 2022)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: Of course it seems to me entirely fundamental that we should never legislate if there is any doubt that there is not a head of power under which we are seeking to legislate. Those are absolute basics. If I can go to the nature of the discussion about the constitutionality of the bill that has exercised us already: since the Parliamentary Joint Committee on Corporations and Financial Services has tabled its report, has the Treasury or the Attorney-General's Department sought further advice on the constitutionality of the bill in addition to what it was that you documented in your opening statement?

Mr Dickson: Since you mentioned the Treasury first—

Senator O'NEILL: Thank you, Mr Dickson.

Mr Dickson: I'm not aware of us seeking additional advice, but I can take that on notice. To my knowledge, we haven't sought additional advice.

Senator O'NEILL: You have not?

Mr Dickson: Well, to my knowledge I haven't, but I'd prefer to take it on notice, just to give you absolute surety that that's the case.

Answer:

Treasury has not sought further advice on the constitutionality of the Bill.