

25 September 2008

TAX LAWS AMENDMENT (POLITICAL CONTRIBUTIONS AND GIFTS) BILL 2008

Second Reading

Mr BRADBURY (Lindsay) (12.53 p.m.) — I rise in support of the Tax Laws Amendment (Political Contributions and Gifts) Bill 2008. I do so after having previously spoken on the former bill, Tax Laws Amendment (2008 Measures No. 1) Bill 2008, of which these particular proposals largely constituted schedule 1. Back when that item was before the House, I note the proposals that are currently contained within this bill were largely the measures contained within schedule 1, although I do note that there are some additions in this particular bill. They relate to some of the concessions and definitional issues that need to be resolved so far as the GST is concerned. I welcome the fact that those proposals have come out of the consultation that occurred on the previous bill, because they were matters that had not been taken into account when the bill was previously before the House.

I would like to address some of the issues that have previously been raised in this debate, but I begin by making a very simple point: the measures that are contained within this bill are seeking to take away the tax deductibility that currently exists for political donations. It is important to note that there is a limitation on the extent to which deductions are available under the existing legislation. Notwithstanding that limitation, this bill seeks to remove the ability of donors to obtain the benefit of a tax deduction. That is a principle that was very clearly put before the Australian people before the last election. It is not a secret. It was not concealed from the public or from those on the other side, although I do note that it has become part of their modus operandi to block the election commitments that we made so they can try to stall our budget, particularly when it comes to some of the key revenue measures that were part of that budget.

I note that back on 2 March 2007 the then shadow finance minister, the member for Melbourne, issued a press release—‘Labor’s \$3 billion savings plan’. I think we all appreciate that, when an opposition releases a savings plan, it is normally a document that is the subject of considerable scrutiny. If you have a look at the degree of scrutiny to which the Labor Party was subjected in all those years of opposition when it came to any financial plan or attempt to identify savings, it was always considerable. For those on the other side to say that this was not explicitly put before the Australian people is just plain wrong. It is an election commitment. We believe that it should be passed. I note that some on the other side keep suggesting that this should be considered as part of some broader reform. I welcome their commitment to broader reform, because there was no such commitment when they had the ability to do something about it in government. In fact, the only reforms that they ever introduced when they were in government were to extend the lurks when it came to these matters, to increase thresholds for tax deductibility and to increase thresholds when it came to disclosure. None of those things achieved any meaningful reform in support of the principles of democracy; on the contrary, they actually allowed donors to maintain some anonymity and also provided greater tax benefits to those who made a contribution.

I welcome the newfound commitment to reform in this area, but I simply say that the fact that it has taken more than a decade for those on the other side to come to the view that some of these things need to be reformed is not of itself a reason to block the delivery of an election commitment. We made this commitment. It is a clear commitment. There are revenue gains to be made out of this, and that is an important part of the overall budget strategy that we have. We want to make sure that we can deliver a significant budget surplus to take pressure off inflation and to deliver for the people whom we are elected to deliver for by ensuring that the only pressure on interest rates is downward. I take on board the commitment to greater reform, but that should not stop us from moving ahead with this particular proposal.

In relation to the issue of the equity of what is being proposed here, it has been said by some of the previous speakers on this side—and the point cannot be made often enough—that, when it comes to tax deductibility, any tax deductibility measure will inevitably provide a greater benefit to a higher income earner because the benefit of a tax deduction is essentially the government forgoing tax revenue from a particular item of expenditure.

With government forgoing that tax revenue, obviously those on a higher income, who are paying a higher level of tax, receive a greater subsidy than those who are on lower income levels. There are some tax exempt entities out there that would get no benefit, but let us look at those that might be on the lower levels. Take the 15c in the dollar level. I often hear from the other side that this measure will stop pensioners from putting their hands in their pockets and contributing to support a political party. If we have a look at the breakdown of the number of pensioners who are currently making a contribution in that sense, the analysis that is available seems to indicate that the bulk of money for funding campaigns is not coming from pensioners, in any event. So the benefit of this tax subsidy is only being provided to those who already have a considerable amount of money.

I must say that I was struck by the comments of the member for Stirling, who said that he was once a great supporter of raising lots of campaign funds and that this is something that was very dear to his heart but now he has seen the error of his ways and he would like to embrace a greater commitment to campaign finance reform. I certainly encourage that because I think we have a long way to go when it comes to these matters. But I would say with respect to the member for Stirling that most people on the other side did nothing to advance the interests of democracy—let us go beyond the circumstances of this particular bill. We saw, particularly in relation to the increase in printing and postage allowances of members of parliament, the entrenching of the incumbents of the parliament. The measures that were undertaken by those on the other side when they were in government made it more and more difficult to have contestable elections.

We have already taken measures in that regard. They are important measures because, in the end, a balance needs to be struck between allowing an MP the resources that they need to communicate with their electorate to get the job done and ensuring that you are not just creating a taxpayer subsidy that allows someone to entrench themselves into a position that denies the contestability that democracy requires. So there is an enormous degree of hypocrisy in the bleeding that has come forward from those on the other side.

I find it extraordinary that we now hear that the new Leader of the Opposition is very much committed to campaign finance reform. I welcome it but I find it very strange, given his history in these matters. An

article in the Daily Telegraph of 1 August 2007 has the headline 'Mal's party: Turnbull no toff but to join club costs \$55,000'. The article reads:

For most Australians \$55,000 is a lottery win, but for the richest politician in Australia—Malcolm Turnbull—it's the entry fee to his elite election fundraising club.

Just in case you thought you misheard that—\$55,000. That, I think, is pretty close to the median household income in my electorate.

The Environment Minister has asked his well-heeled Eastern Suburbs to fork out between \$5,500 and \$55,000 for membership to the Wentworth Forum, a think-tank whose main aim is to get him re-elected.

And he's even throwing a party at his harbourside mansion as part of the campaign, with a guest appearance from Prime Minister John Howard.

Mr Turnbull, a former merchant banker, said he needs the money because the Liberal Party is at a financial disadvantage to Labor, which he claims receives a "torrent of cash" from the unions.

I find it extraordinary that fundraising could be operating on that scale to begin with, and I think that that is something that needs to be addressed. To the extent that concerns raised by those on the other side go to the issue of trying to rein in some of the campaign fundraising that is occurring, I support that, and I think most people within this House would support that. But I think it is a bit rich to start receiving lectures in relation to these matters from those who were the master practitioners of this particular art.

Another article, in the Age and dated 7 October 2003, speculates about the capacity of the Liberal Party to raise funds after Malcolm Turnbull had moved on from his position as federal treasurer of the party. The article says:

Mr Turnbull strongly rejected such suggestions—

the suggestions were that he would no longer be raising funds for the party and that he had left the party in a less than desirable financial position—

describing them as "nonsense".

He said that last year he had raised more money than the Liberal Party had ever raised in a non-election year.

So we have a Leader of the Opposition who cut his teeth, earned his medals and rose up through the party by making an art form out of raising serious campaign finance. If those on the other side are serious about reforming the whole system we embrace that. But I think that the Australian public will be very cynical, given the lack of action—and indeed if they look at the actions of those opposite in all those years when they were in government they are right to be cynical about the approach that is being taken by those on the other side.

I would like now to turn my attention to the issue of trade unions and the extent to which they are a part of this debate. There have been a number of very misleading statements made in the debate prior to this point. Some of them, I think genuinely, display a lack of understanding of how the current tax law provisions operate, but others I think are more deliberately disingenuous. The suggestion seems to

be that, in denying tax deductibility in relation to political donations and given the fact that union dues that are paid by members of a union to their union are tax deductible and that unions in some way make contributions to various election campaigns that the Labor Party is involved with, somehow an indirect tax deduction is being made available for union dues that is not available elsewhere. I think it displays, firstly, a lack of understanding of how the tax law operates—and I see the former Assistant Treasurer in the House and I know he would be very much aware of these issues.

Section 8-1 of the Income Tax Assessment Act 1997 is one of those really significant provisions within what is a very large act. It is the general deductions provision. It essentially provides that, where expenditure is incurred in the course of undertaking activities that relate to the derivation of income—to the earning of income—a tax deduction is available. There are certain statutory exceptions, but that is the basic principle. In fact, it is under section 8-1 where the principle of tax deductibility of union dues finds its legislative source. It is not some special provision that was created. You have to understand the political contributions provisions that this bill seeks to repeal—the ones that give you that tax deduction—are a specific set of provisions. But section 8-1 is the general deductions provision that applies to all taxpayers. It states: 'If you incur an expense and that expense is incurred in the course of producing an income you get a deduction.' It is a universally acknowledged principle and that is why it is known as the general deductions principle. I want to read from tax ruling 2000/07, which states:

Periodic subscriptions paid by a person for membership of a trade, business or professional association are deductible under section 8-1 of the Act where the principal activities of the trade, business or professional association are relevant to the gaining or producing of assessable income by the member, or the carrying on of a business by the member for the purpose of gaining or producing assessable income. Therefore, where the principal activities of the association are negotiating and administering employment agreements, and/or providing professional development services, the subscription is an allowable deduction, provided that the member is earning assessable income from the relevant trade, business or profession.

Importantly, the tax ruling is an ATO statement of what the current law is. At paragraph 7, the ruling goes on:

Where the principal activities of the association relate to lobbying politicians or influencing public opinion on matters not related to the derivation of the members' current assessable income earning activities ... a deduction is not allowable under section 8-1 of the Act.

An important distinction is being drawn here. As it currently stands, the law states, 'A union member who pays union dues that contribute to the provision of services for that member, and their fellow members, in advancing their pay and conditions, has an expense that is incurred in the course of producing their assessable income and therefore that fits within the universally accepted section 8-1, the general deductions provision.' So it is general tax law at work. The same would apply if it were an employers association, and that is also an important point to remember.

There is no special concession being provided to trade unions, because the same concession is provided to all associations of that particular description. So the Law Society, for example, would fit into that category; employers associations would fit into that category. The special treatment that those on the other side claim is being afforded to trade unions is treatment that is generally available to any other organisation in that situation. This bill is only taking away the specific provisions that deal with the tax deduction relating to political contributions, and they are in division 30 of the act. By taking those provisions away, the existing tax deduction that is available will be removed and other deductions that

might be available under the general deductions provision will continue to prevail.

So to come in and suggest that somehow the trade union movement is getting some special treatment is, as I said before, either being deliberately disingenuous or displaying a lack of knowledge of the provisions that we are dealing with here. I could go on at much greater length on that particular point, but I think the point has been made.

Finally, in conclusion, this is an important measure for a few reasons. Firstly, it was an election commitment, and we are a government committed to delivering on our election commitments, however unique that might sound. But it is also an important revenue measure. We are also a government committed to delivering a significant surplus that will take pressure off inflation, protect our economy against the global economic turbulence and, ultimately, ensure that the only pressure on interest rates is downward pressure. In addition to that, this measure will restore some equity to these particular provisions. It will ensure that the very wealthy, as well as the less wealthy, who contribute and make donations to particular political candidates do not get a tax windfall. It is a question of equity. It is also a question of ensuring that those who want to make a contribution to the political process in this way can do so, without the need for any additional public subsidy, given the fact that we already have a considerable regime of public funding of political elections in this country. On that basis, I commend the bill to the House.