

## **TAX LAWS AMENDMENT (2008 MEASURES NO. 4) BILL 2008**

### **Second Reading**

**Mr ROBERT** (Fadden) (9.54 a.m.)—It is interesting that we find ourselves in the House this morning debating a range of bills that I think demonstrate Labor's true colours. The Trade Practices Legislation Amendment Bill will come forward this afternoon. It seeks to roll back section 46 (1A) of the Trade Practices Act and reinstate the market-power test rather than the market-share test. Fifty per cent of Australians are employed by small businesses and Labor is seeking to roll back a reform that will directly impact them because of the predatory pricing of larger institutions. But it gets better. Not only does Labor want to wipe out small business in that respect; later on today we have the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2008 whereby the Labor government is seeking to allow pornography back into Indigenous communities in the north. As if the *Little children are sacred* report—which showed the direct linkage between child sexual assault and pornography in communities—was not enough, this Labor government wants to allow it back in again. That brings us to our current piece of legislation, the [Tax Laws Amendment \(2008 Measures No. 4\) Bill 2008](#), which actually wants to roll back—

**The DEPUTY SPEAKER (Hon. BC Scott)**—I thank the member for Fadden. He was about to be brought back to the bill before the chamber.

**Mr ROBERT**—I am simply bringing to the House's attention three bills that demonstrate Labor's true colours in affecting small and medium enterprises and adversely impacting Indigenous brothers and sisters by allowing pornography back in again, and now through adversely affecting those who hold trusts. The coalition, of course, was intending to support schedules 1 and 3 of the bill and wrote to the government to say: 'Remove schedule 2, which is unfair. It is unjust. It is proposed on a false premise.' It was proposed as a budgetary saving measure. Treasury, within the Senate inquiry, made it very clear that the savings would be \$1 million or perhaps a little more. Schedule 2 was promoted on a farce. In the words of the member for Kalgoorlie, it is 'a complete dud' of a schedule proposed by 'a complete dud' of a government. So the coalition, through some degree of generosity, said, 'Remove schedule 2, which seeks to disadvantage Australians with trusts and to disadvantage those in rural and regional areas.' But the government, in its arrogance, in its hubris, refused to do so, leaving the coalition no choice but to oppose the bill in its entirety.

The Australian people need to understand that we are now forced to oppose this bill because of the bloody-mindedness of a dud government that will not see the impact of schedule 2 on those who run trusts, and especially the intergenerational passing of those trusts. Schedule 2, of course, seeks to repeal two of the family trust changes made by the coalition government in 2007. A financial impact of \$20 million over the forward estimates was put forward, but this has now quite clearly been shown to be a sham and a farce—as much of Labor's legislation is slowly appearing to be. Treasury noticed that they could not justify that figure and that the savings would be considerably less.

There are two measures within this second schedule. The first proposes that the definition of family reverts to the previous definition, noting it will limit lineal descendants to children or grandchildren of the test individual or the test individual's spouse. The second measure will remove the ability of the test individual specified in a family trust election to be changed. These changes were brought about in 2007 by the coalition government after enormous consultation to reduce the restrictions and compliance burdens placed on small to medium taxpayers. The key thing here is that the coalition brought in this piece of legislation after enormous consultation. Let us compare that to the budget measures that the Labor government brought in—an assault of over

\$2 billion on the condensate industry that will have a direct impact on the LNG industry. Was the LNG industry consulted? Were they asked for their input? Or in one fell swoop was that industry and indeed the sovereign rights that attached to it and to all exploration in this nation swept aside because of a Treasury measure?

Indeed, Woodside, at 1 pm yesterday, announced that they would pass on that full \$2½ billion in increased gas costs to taxpayers in WA. That is the impact of implementing legislative changes without any consultation. And it continues with a raft of other measures: alcopops tax, tax increases on luxury cars, \$19.7 billion worth of taxes put upon the Australian people—a fraud enacted upon the people of the Commonwealth that they were not told about prior to the election. Whenever this farce of a government walks in here holding aloft and claiming a mandate to implement changes, may I remind those opposite that they have no mandate to increase taxes by \$19.7 billion. They did not consult widely with the Australian people. They perpetuated a fraud on the Australian people and they will stand condemned for that fraud. So it is no wonder that a responsible opposition are saying to the Australian people: we are going to look at these fraudulent tax increases and we will make a considered opinion as to which ones should be allowed through and which ones should be voted on in the Senate.

Coming back to this fraudulent schedule No. 2, this Labor government has sought to justify the change as a revenue-saving measure—'It is all right; we are going to stuff with the full lineal descendent nature of trusts because we are going to save taxpayers some money.' This government rolled out a figure of about \$20 million. It would be interesting to know where indeed it plucked that number from. Let me go to the dissenting report from the coalition senators—because, of course, on 12 August the Senate Standing Committee on Economics had a hearing to see and test the veracity of what this government is doing. It is becoming increasingly necessary to test the veracity of everything that this fraudulent dud government is seeking to do. The dissenting report says:

In brief, this schedule makes changes to the lineal descendents laws for Family Trusts ...

It continues:

The current moves against changes to family trusts have little to do with closing loop holes and are far more, it appears, a move to transition trusts to entity taxation laws. The move to restrict the inter-generational nature of trusts works against the implicit nature of why we have trusts.

Trusts are as much a relationship as they are an entity. Trusts are designed as a relationship within families to hold assets and to pass those assets down within families. Trusts are predicated upon keeping families and assets within them strong and passing them down. An assault on a trust is an assault on families. Mr Julian Cheng of the Institute of Chartered Accountants said during the inquiry:

... a lot of trusts have a typical vesting period of around 80 years. In practice, they can typically cover four generations. The proposed amendment to limit the definition of family is out of line with the expected life span of trusts.

The report continues:

The issue with the change to the test individual is that it starts to limit the lifespan of the trust and forces the trust to an event horizon where either the trust vests or the penalty tax is paid at 46.5 per cent—

the current top marginal rate. It goes on:

As that is at a premium to the corporate tax rate, then the trust will become obsolete and companies will take their place. The benefit to the treasury is the long term removal of the tax advantage of discretionary trusts.

As discretionary trusts are one of the major ownership vehicles in family assets, especially rural land, then all current ownership structures will have to be reviewed, which has already started. For the discerning—

and I will note that does not include the Labor government—

majority non-real property asset structures will be moved overseas, for the majority of trusts, however, they will, for no apparent reason, have the tax nature of their asset changed.

So the question is: why an assault on family trusts? Why an assault on the basic nature of the family and their desire to pass assets down? During the inquiry, the chair asked Mr Cicchini from the Treasury:

Are you aware of any groups of people who form family trusts—for example, in rural areas ...

The witness from Treasury replied:

... I understand that there are in the area of the rural communities. It would mainly be in the farming sector, where the land may be held separately to the business ... it might be because you want to segregate and control your assets in succession planning.

The rationale, it appears, for reversing these amendments was stated in the explanatory memorandum as being a savings measure. The explanatory memorandum says:

The trust loss measures protect the integrity of the income tax system by preventing the tax benefits arising from the recoupment of a trust's tax losses and bad debt deductions being transferred to persons who did not bear the economic loss or bad debt when it was incurred.

This is perhaps noble if one were to take the words at face value, which I would caution the Australian people not to do when it comes to this government; yet evidence from Treasury indicated that, when this announcement was made by the government, it was announced as a savings measure. But when pushed Treasury said:

The costing of this represents the reversal of the earlier measure, so it is based essentially on the earlier costing of the changes to family trusts and family trust elections ...

And:

My recollection of the costing of this is that the lineal descendants, over the forward estimates period, is a very small part, probably around \$1 million.

That is what the inquiry showed—that this is all about saving \$1 million. The compliance costs for close to half a million trusts in this country will have to be reviewed and looked at to save \$1 million. What if half a million trusts spent a few thousand dollars on accountants and lawyers to look at the compliance and the impact of these changes on their lineal descendants? The tens of millions of dollars of compliance costs on ordinary Australians—and in particular rural, remote and regional Australians—clearly bear no interest or no concern from this Labor government. It just wants to come out in the politics of envy and attack those who have trusts. Clearly, it is not a savings measure. You are saving \$1 million and putting compliance costs of tens of millions of dollars upon Australians, so it is not a savings measure.

So why doesn't the government call it as it is, as did the good minister at the desk, the Minister for the Environment, Heritage and the Arts, the member for Kingsford Smith, when he said, 'When we get in, we will change it all'? That is exactly what this moribund, egregious piece of legislation is seeking to do. It is seeking to detrimentally harm rural, remote and regional Australians, particularly those with land, notwithstanding other Australians who hold trusts, to take away their opportunity and, indeed, right as a family to protect assets down family lines. The government wants to

sweep that away because that does not fit in with its left-wing ideological bias. There is no other reason I can come up with, because the savings measure is only \$1million yet the compliance costs will be far greater. There is no other logical conclusion that can possibly be reached. Indeed, the minister at the table was correct: 'Once we get in, we'll just change it all.' No word of the \$19.7 billion in tax increases and no engagement with the community—'We'll just get in in a duplicitous, conniving manner and we'll just change it all.'

Schedule 2 of the legislation is appalling. The government was given the opportunity to pull schedule 2 out for the benefit of Australia, to allow schedules 1 and 3 to come in. This arrogant government, who said that when it got in it would change it all, has decided not to pull it out. We have no choice, then, but to protect Australian interests, to protect Australian families from this duplicitous government, and reject the entire bill. Be it on the head of this government, because when it got in it indeed changed it all.