

Taxation Laws Amendment Bill No 7 1997

Minority Report from Labor Members

The Labor Senators consider the whole process adopted regarding this bill reflects poorly on the Government and, regrettably, poorly on the Senate.

The Senate's role in reviewing legislation through the Committee system is the key feature of the legislative checks and balances contained in our bicameral constitutional system.

The Senate can only properly discharge this function where it is properly aware of the proposals before it. Similarly, citizens must also be properly aware of the proposals to be considered by the Senate in order to accurately critique and scrutinise them, so ensuring a fully informed debate occurs.

The actions of the Government with respect to this bill utterly fail the above tests. The ludicrous process concerning this bill is an affront to transparency in government and is an insult to the participants in the committee process.

This bill is currently adjourned in the consideration in detail stage in the House of Representatives. The amendments which the Government intends to make to the bill have not yet even been moved in the House. The resumption of this debate is not scheduled to occur until Wednesday 8 April 1998.

However, the Government determined that it must have passage of this legislation through the Senate during this sitting period even though this is not feasible nor necessary for the smooth implementation of the proposals contained in the bill.

Accordingly, the Government has engaged in this appalling process which involved rushed hearings and inadequate public consultation. The Assistant Treasurer released 49 amendments to the legislation at 4pm on Friday 27 March in the full knowledge that hearings on the legislation were scheduled the following Monday morning. Not surprisingly, the witnesses were not adequately able to deal with the legislation and the amendments and the quality of evidence was compromised.

To attempt to overcome this disgraceful performance by the Government, the Labor Senators proposed to the Senate that the Committee report in May. This motion was amended by the Government and the Australian Democrats to the current (inadequate) reporting schedule. However, this action by Labor at least ensured that another day of hearings was facilitated on 3 April 1998.

Incredibly, when this further hearing was held, witnesses to the Committee still did not have a complete bill to provide evidence about. In addition, the witnesses also had to deal with the untenable situation where the Government had introduced further

legislation, Taxation Laws Amendment Bill (No4) 1998 earlier in the week, which impacts on the operation of the bill before the Committee.

Clearly, this appalling process by the Government impacts on the quality of the deliberation by Committee members and is considered unacceptable to the Labor members of the Committee.

The pointless haste with which the Government has dealt with proper Senate processes in considering this bill has been counterproductive for both community representatives appearing before the Committee and for Committee members.

The evidence before the Committee demonstrates that there is significant community opposition to some of the proposals in the bill in the area of the taxation of private company distributions, even if the Government's amendment proposals are enacted.

There is also great disquiet about the potential, (presumably unintended), effects of the provisions concerning schemes to provide franking credit benefits on collective investments such as managed investment funds and superannuation funds.

Labor Senators consider the processes forced on the Committee by the Government have been unacceptable and have resulted in an inadequate consideration of the true issues raised by the proposals in the bill.

Accordingly, no specific recommendations are contained in this report.

Nevertheless Labor considers that the schedules 8 and 9 of the Bill as currently proposed by the Government may need further amendment to deal with anomalies not adequately addressed by the Government's proposed amendments.

Senator Jacinta Collins
ALP Senator for Victoria

Senator Mark Bishop
ALP Senator for Western Australia