



Speech by

Dr DAVID WATSON

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Hansard 25 March 1999

REVENUE AND OTHER LEGISLATION AMENDMENT BILL

Dr WATSON (Moggill—LP) (Leader of the Liberal Party) (4.46 p.m.): In speaking to the Revenue and Other Legislation Amendment Bill, I indicate that the Opposition will be supporting this legislation. There are three key aspects to this Bill and some incidental aspects. The first key aspect is the amendment to the Debits Tax Act 1990 to reflect changes brought about by the updating of the financial system to provide non-bank financial institutions with cheque-drawing facilities. The second aspect of the Bill which is significant is the amendment to the Fuel Subsidy Act 1997 to address certain administrative and operational issues following the High Court's decision to invalidate State franchise fees, and the Commonwealth's stepping in to collect such fees on behalf of the States. The third significant aspect is the amendment to the Stamp Act 1894 to account for certain avoidance opportunities that have arisen because of some court decisions in both Queensland and Victoria.

I will address very briefly those three aspects, starting with the amendment to the Debits Tax Act 1990. Most members would recall the very successful financial institutions scheme which used the Queensland legislation as template legislation to cover non-bank financial institutions. In spite of the success of that scheme, which was Australiawide but, as I said, based upon the template legislation of Queensland, it was felt that the financial system could be improved if we had a common financial system covering both bank and non-bank financial institutions. The previous Government made a submission on behalf of Queensland to the Wallis inquiry. In that submission, we supported the movement towards integrated financial requirements and an integrated regulatory system for bank and non-bank financial institutions. The shadow Treasurer at the time also indicated his support for moving towards a deregulatory framework.

It is important to know what we as a State put forward. I will summarise five points from our submission to the financial system inquiry. Firstly, we stated that financial institutions that provide similar products or services should be required to meet similar prudential guidelines. Secondly, we stated that the administration and supervision of financial institutions should be flexible and capable of readily adapting to changing financial markets. Thirdly, we stated that artificial restrictions to competition should be removed between institutions offering similar products and services and that comply with similar prudential requirements. Fourthly, we stated that institutions having a similar corporate framework should comply with similar administrative arrangements. Fifthly, we stated that building societies and credit unions should be able to retain their nature and character as they choose and that market forces should ultimately determine their commercial survival.

Further, we stated that legislation should provide for entry to and exit from the market as well as conversion to one structure or another. We were arguing—and as I said the then shadow Treasurer and current Treasurer supported this—that in respect of these competitive markets there should be equivalence between the traditional banking institutions and the non-banking institutions, particularly building societies and credit unions, in respect of which there had been a significant rise in number. We argued that they should be put on a level playing field. Part of that level playing field, of course, involves the issue of taxation.

Customers of credit unions and building societies are now going to enjoy the added flexibility that comes from financial deregulation—particularly the ability to be able to cash cheques. This amendment is to be moved to ensure that, in order to have these new financial institutions operate on

a level playing field, their cheque account facilities should also be subject to State debit taxes. That was always the intention. The financial institutions concerned always understood that that was going to be the recommendation; that was going to be the outcome of a deregulated system and of providing the building societies and the credit unions with the opportunity for expanding their range of services. So the expansion of the range of services came with the acceptance that the debits tax would be applied to those institutions. This Bill before the House completes that process.

The second aspect which, as I said, was important was the fuel tax subsidy amendments. I must admit that I am still amazed when I think about the High Court decision in this area. I am amazed, of course, that the High Court did not have the wit to read the term "excise duties" in the Constitution narrowly, rather than putting the States and the Commonwealth through I think a fairly unnecessary, cumbersome legislative process. I am particularly amazed about that for a couple of reasons. First of all, we all know that, because of international competition, excise duties which were mainly of an import variety were being phased out between countries. The real situation is that the Commonwealth was getting out of these kinds of things.

Why it was not possible for the High Court to read the concept of excise duties narrowly and leave the States in exactly the same situation as they were prior to its decision I think is amazing, particularly when one sees other decisions by the High Court in which it can find non-existent rights in terms of rights actually written in the Constitution, but imply rights to resolve some defamation cases. It is unfortunate, but the result was that a more complicated taxing arrangement has come about. It has not changed one iota the amount of tax which is levied nor necessarily who is bearing the tax, but it has increased the complexity of the tax collection process and has particularly increased the complexity of reimbursing the States for the taxes they were previously collecting.

The other unfortunate thing about it—and I am sure the Treasurer agrees with this statement—is that the result, of course, was an exacerbation of the vertical fiscal imbalance problem.

Mr Hamill: An even greater imbalance.

Dr WATSON: An even greater imbalance. The rise of vertical fiscal imbalance has now a long history. It was started principally in the late twenties with some changes to the Constitution with respect to the Loans Council. It was really exacerbated by the Acts that were passed by the Commonwealth Parliament during the Second World War. Under the war powers provision of the Constitution, four tax Acts were passed that essentially removed the State's ability to apply income taxes at that time and transferred it to the Federal Government. But most importantly, of course, it also transferred all the public servants, which turned out to be the killer in the longer term, from the State Public Service to the Federal Public Service.

Even though each of these four Acts were declared sequentially unconstitutional—the last one in 1949—the High Court would not force the now Commonwealth public servants back to the States. It said, "While the States can get back into income tax, you have to re-establish all of all your Public Service to get back into it." At that stage a deal was done between the States and the Commonwealth to have a bit of a tax sharing arrangement. Victoria tried to overcome that. I think that happened back in the early eighties or late seventies.

Mr Hamill: There was also an attempt in about the mid fifties.

Dr WATSON: Yes, they did. They did something in about the early fifties. I think it was about 1954—the member is right about that—and then, of course, back in the eighties. That is right. That reminded me of the fact that that was a previous attempt. Because of the cost of actually establishing the Public Service again in Victoria and I guess the argy-bargy between the States and the Commonwealth, the States were further compensated at that time.

Mr Hamill: The High Court ruled that the Commonwealth tax was the first charge.

Dr WATSON: It did.

Mr Hamill: That's what really killed it.

Dr WATSON: It was the first charge, but the States could have at that stage imposed something.

The issue, of course, was that that increased the vertical fiscal imbalance, and the recent High Court decision with respect to franchise fees just simply added to that yet again. I think that was pretty unfortunate, particularly, as I said, with respect to the fuel excise and other franchise duties. It clearly came at a time when the Commonwealth was getting out of those types of things. It has not had any effect in terms of the type of taxes applied. All it has done is complicated the administrative mechanisms for getting the tax from those who are taxed to the States. At any rate, there is nothing we can do about that. It is worthy from time to time to remind people of the effect of some of these High Court decisions in a practical kind of way and the impact they have on the States and Governments of all political persuasions.

The third aspect of the Bill relates to changes which have to be made to the Stamp Act following some decisions that were made in both the Queensland and Victorian Supreme Courts. I have to thank Melissa Daly from the OSR for the briefing in the Treasurer's office. It is not that I did not follow some of the things, but I was surprised by the extent of the impact of a couple of the court decisions. I was particularly surprised about the——

Mr Purcell: David!

Dr WATSON: I have 48 minutes to go. I note that the member for Bulimba can actually wave his hands.

Mr Braddy: And chew gum at the same time.

Dr WATSON: Yes.

I was surprised by the extent of the buy-back that was occurring. I asked Melissa to give me some advice on the extent of that in public companies. While I can understand the buy-backs occurring in private companies and closely held companies, I was surprised that it was actually having a significant impact in terms of broadly dispersed, widely held public companies. She told me that one of them had been the Commonwealth Bank of Australia. Having said that, I notice that earlier in the week the same issue was in the business pages of the Courier-Mail. I guess if I had paid more attention to the impact on stamp duty when the issue first came up, I would have understood perhaps——

Mr Hamill interjected.

Dr WATSON: No. It is just that when we read these things we forget about the possible impact in relation to things such as the Stamp Act. Having received advice from Melissa Daly and the office of the Treasurer, I can now understand the potential future impact.

I did company law when the idea of public companies buying back their shares was not only unusual but also illegal. When I went to the United States, I found that it was actually a common phenomenon and I had to relearn the Corporations Law and how it applied there. Obviously, with changing financial markets and so on it is becoming more widespread here. The Opposition understands the necessity for each of the changes. We support those changes and we commend the Bill to the House.
