



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

TAX LAWS AMENDMENT (2004 MEASURES NO. 1) BILL 2004

In Committee

SPEECH

Tuesday, 15 June 2004

BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Cherry, Sen John

Source Senate
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Senator CHERRY (Queensland) (8.48 pm)—I rise to oppose this schedule because I believe the government is going very much in the wrong direction in respect of charities law. I have spoken in this place on a number of occasions on the need for a review of charities law and for an updating of the law, and I was very pleased that the government, some four years ago now, agreed to a review of what a charity is. The recommendations on what a charity is were delivered in a report by the committee on the definition of charities some three years ago. That definition was put into a draft bill that the Board of Taxation looked at over the course of the last year and made recommendations on to the government, which I understand the government rejected in its budget statement. It is very hard to give much support to the government's approach to the law of charities, given that the government approach seems to be somewhat uncharitable. It appears to consist of making life harder and harder for charities in terms of endorsement processes and the tightening of administration whilst, at the same time, whenever proposals are brought forward to modernise the law on what a charity is they are strangled somewhere in the deep recesses of Treasury.

The concern the Democrats have is that we need to update our understanding of what a charity is if we are going to have any sort of endorsement process or determination of what charitable or non-charitable activity is. The way to do that was outlined in some detail in the recommendations of the committee on the definition of charities which was headed by Justice Sheppard. The report of that committee was very sensible in recommending some broader definitions of what a charity should be and what charitable activities should be, and also the updating of the old arcane definition of 'public benevolent institution' to one of 'benevolent charity'. I raise these issues now because we cannot really support a process of endorsement of charities against a definition of charities that is 400 years old. If we were talking about an up-to-date definition, if we were talking about a new process and if we were talking about checking organisations against some reasonable benchmark by some reasonable process and against some reasonable new concessions it might make sense. But the government has chosen to freeze the definition of charity where it has been over the last 100 years and, as a result, I cannot really see any point in putting the charities we have got through the enormously cumbersome process which is outlined in this schedule to seek endorsement of what they already are.

In closing, I will ask the minister a question. It is one I have asked her in question time on a number of occasions. There were two sets of recommendations on the definition of 'charity'. One was the definition which was put into a draft charities bill which, as I said, died on budget night this year. The other was a series of recommendations to overhaul the definition of 'public benevolent institution'. When is the government going to respond to those recommendations? Is it going to respond to those recommendations or are we going to stick with the current 80-year-old definition of 'public benevolent institution' which was put in place by the Bruce-Page government in the 1920s?