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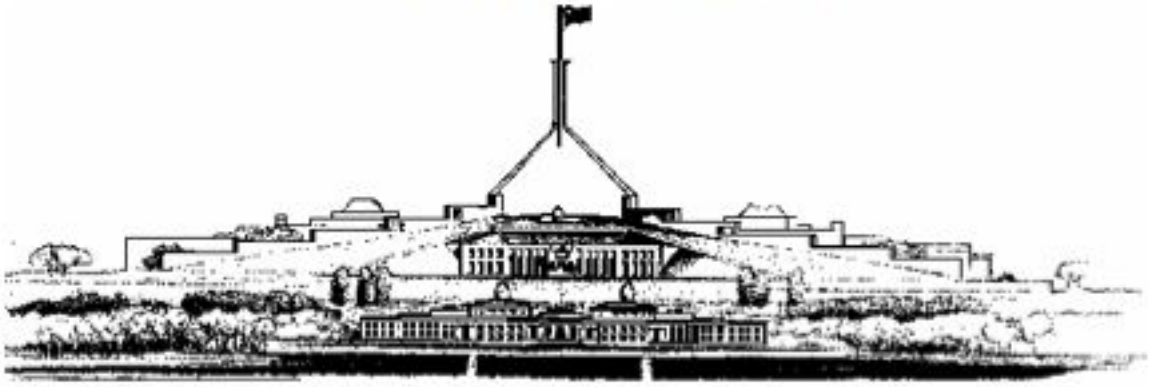

# THE SENATE

# TAX LAWS AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011

# INCOME TAX RATES AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011

## Second Reading

## SPEECH

**Wednesday, 2 March 2011**

BY AUTHORITY OF THE SENATE

# SPEECH

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| **Speaker** | Xenophon, Sen Nick | **Question No.** | |

**Senator XENOPHON** (South Australia) (10.39 am)—I would like to start my contribution to this debate on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 by reflecting on the impact of the floods and cyclone in Queensland. In human terms they have been devastating. Lives have been lost. Families have been torn apart and communities have been scarred forever. Like so many of us, I have been inspired by the people of Queensland and the way they have come through these incredible disasters. Let me be clear on this: we must find the funds to help Queensland rebuild. We must give Queenslanders everything they need to rebuild their lives and their communities.

Some politicians in Queensland have opportunistically tried to make out that I have some beef with Queensland. I do not. I have great affection for Queensland and its people. My beef, for want of a better term, is with the Queensland government, which gambled with billions of dollars of our money and lost. The first thing we need to ask ourselves is: why do we need to have a levy in the first place? It is quite clear that one of the key reasons this levy is being sought by the government is that Queensland failed to take out natural disaster insurance. Under the current natural disaster relief and recovery arrangements the federal government is obliged to pay 75 per cent of the costs of rebuilding infrastructure after a disaster and the state or territory picks up the remaining 25 per cent. The problem is that, unlike Western Australia, Victoria, New South Wales, South Australia and the ACT, Queensland decided to save money and not take out insurance. That is the only reason the federal government has to find $5.8 billion.

Queensland claims to be self-insured. It is not. If it were, it would not need $5.8 billion from federal taxpayers. There is another term for Queensland's so-called self-insurance; it is called not having insurance. It is claimed that Queensland currently has a fund of around $700 million, which is well short of the almost $8 billion it would require if it were not for the federal government's funding of $5.8 billion, leaving Queensland to fund $2 billion given the current federal-state relief arrangements, which split a recovery bill 75 per cent and 25 per cent respectively. The problem with the current arrangements is that the 75-25 split applies regardless of whether a state has insurance or not.

Victoria also got flooded, but because it has insurance the cost to the federal taxpayer will be a fraction of what it would have been had the Victorian government not sensibly taken our disaster coverage. It is a point that is not lost on Victorian Premier Ted Baillieu. It is interesting to note that the Victorian Managed Insurance Authority has a level of transparency and accountability far superior to similar bodies in states such as Queensland. It is also interesting to note that the Victorian Premier, Ted Baillieu, was reported in the media just yesterday as saying, 'This is something that we all have to pay for. It is something that needs to be sorted out.'

You only need to look at the annual reports of the various state insurance authorities to see the difference in levels of transparency and how little transparency there is with the Queensland fund. Last week Premier Bligh claimed on ABC TV's *Q&A* program that disaster insurance was not available for Queensland. It is a strange thing to say given that insurance was available to Queensland. A decade ago it was offered multibillion dollar disaster insurance for infrastructure, including roads, for two events per year. The cost for that was less than $50 million a year. They had senior officials working on this, including Queensland Under Treasurer Gerard Bradley. They sent officials overseas to negotiate with global reinsurers, as I understand it. Then at the eleventh hour the decision was made not to take out the policy so the Queensland government could save $50 million a year, knowing that the federal government under current arrangements would pick up the bulk of any multibillion-dollar bill.

I mention Mr Bradley in particular because he recently gave evidence at the House Standing Committee on Economics inquiry into this levy and his evidence also seems to contradict the known facts in this area. When asked why Queensland did not have insurance, Mr Bradley said:

As I mentioned in my opening comments, the NDRRA is the established mechanism by which the Australian federation manages the risk of catastrophic events. The Queensland government has considered its insurance arrangements in the context

of those NDRRA arrangements. We do have in place appropriate insurance through our Queensland Government Insurance Fund, which is a captive insurer.

Also, for infrastructure and other matters that fall outside the parameters of the NDRRA arrangements, for example our major utilities in gas, water and energy and public transport, the authorities who are involved in provision of the infrastructure do consider their appropriate insurance arrangements.

Mr Bradley went on to say:

Indeed, there are insurances in place for certain assets that have been impacted by the floods but do not quality for NDRRA arrangements. We have considered the issue or reinsurance for our captive insurer, but at the time that we considered that we did not consider that that represented value for money for the state. It is the case that some other states do have reinsurance arrangements in place. I am advised by them that generally they do not cover road infrastructure. As I have mentioned, 80 per cent of the cost of this natural disaster relates to roads, so the availability and cost of seeking reinsurance for that infrastructure would be a major challenge.

Listening to that, you could be forgiven for thinking that Queensland could not get disaster insurance that covered roads. But in fact they were offered it and rejected it. I have repeatedly challenged the Queensland government in recent days to deny that they were offered this level of insurance, that they were offered significant, substantial insurance in the billions of dollars to cover their assets, including roads, for a premium of less than $50 million a year.

When pressed about the claim that the insurance did not offer value for money, the Under Treasurer went on to say:

We looked at the case of the Queensland Government Insurance Fund and looked at the availability of reinsurance to cover major events. We sought reinsurance advice from our broking advisers and we did take that to the international insurance industry. But the costing of that and the risk provisions that they proposed did not represent value for money for the state in terms of the deductions for events and the exposures they were willing to cover. They did not, for example, cover natural disaster.

Once again, this testimony seems to be at odds with the information I have received from a number of sources over the insurance dealings of the Queensland government. That is why I believe we need to look at the insurance arrangements in Queensland. Clearly there is such a large gap between claim and counterclaim that an inquiry is needed to get to the bottom of it.

In due course the Senate will also need to seek the key documents so that we can see what was offered, when and for how much. That is very much in the public interest. It should never be good enough for a state or territory government to say, 'Trust us, we tried to get insurance; now give us billions of dollars.' Had Queensland taken out the policy, the bill faced by the Commonwealth would be a fraction of what it is now. Ultimately, the Queensland government decided to gamble with billions of dollars of Australian taxpayers' money and we all lost.

The Queensland government has argued disaster insurance did not represent good value for money. The question is: for who? It might be cheaper for Queensland to gamble with federal money, but it has left the Australian taxpayers with a repair bill that is billions of dollars more than it needed to be. You also need to ask the question: why is it that private householders and corporations in this country can get disaster insurance on the private market—on the global reinsurance market—for the same sorts of events that the Queensland government could have got insurance for?

Certainly Queensland Treasury gets to save $50 million a year or a similar amount for a reasonable premium, but now we have a situation where the federal taxpayer has to find 120 times that amount. Think about that—120 times the annual premium to honour the grossly deficient state and federal funding arrangements. When you look into those arrangements, the deal gets even better for uninsured Queensland and a lot worse for those governments that do have disaster insurance like Victoria, New South Wales, South Australia, Western Australia and the ACT. That is because, under the current GST arrangements, Queensland gets up to 80c in the dollar back of the 25 per cent share they have to pay through increased GST revenue, so state governments that took out insurance lose GST money in order to prop up a state government that did not bother to take out insurance. That compounds the moral hazard. There is a huge moral hazard here when it comes to the issue of taking out insurance, given the current arrangements. There is a positive disincentive, in a sense, for state governments to do the right thing when it comes to insurance.

Some have argued the federal government cannot force the states to take out insurance. I am not suggesting they can. But the federal government can tell the states the consequences of not taking out appropriate insurance.

The federal government can withhold federal disaster relief if a state does not take out insurance or it can reduce access to relief if a state or territory underinsures. That is clear, given the grants arrangements under section 96 of the Constitution.

If I support this levy, I want to ensure this is the last disaster levy Australian taxpayers ever need pay, and the federal government should not be expected to reward bad behaviour. I am not suggesting these changes should be retrospective. But I am saying that we should learn from the mistakes of the past—multibillion dollar mistakes. The federal government should never again be signing a multibillion dollar blank cheque to a state or territory that did not do the right thing. We should look after Queensland this time, but we should also have to say, 'If you don't get appropriate cover you can't get federal funds next time.' If it is good enough for Victoria and New South Wales and South Australia and Western Australia and the ACT, it should be good enough for the Queensland government.

I can indicate that, whilst I will support the second reading stage of this bill, I will reserve my position in relation to the third reading, to the final stage of this bill. I will not be supporting this levy unless changes are made to current arrangements so that states are given strong incentives to seek appropriate disaster cover and strong disincentives if they do not.