THE SENATE

A NEW TAX SYSTEM (CLOSELY HELD TRUSTS) BILL 1999

A NEW TAX SYSTEM (ULTIMATE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 1) 1999

A NEW TAX SYSTEM (ULTIMATE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 2) 1999

Second Reading

SPEECH

Monday, 28 June 1999

BY AUTHORITY OF THE SENATE
Senator CONROY (VIC) (8.54 pm)—I rise to speak to the Labor Party amendment on sheet 1460, as circulated. It sets out a range of issues that, unfortunately, are not dealt with in the bill. I appreciate that the Democrats are in a situation where they have reached an agreement with the government on a tax—

Senator Murray interjecting—

Senator CONROY—I am supporting my own amendment, thank you, Senator Murray. It is, I appreciate, quite late in the day. Senator Woodley, I am pleased to see you with us today.

Senator Woodley—Don't provoke me.

Senator CONROY—I am disappointed. Many in the media have commented on the fact that they thought the deal reached between the government and the Democrats—as the Prime Minister put it—reflected 85 per cent of their desires. There would be many in the broader community, as well as in their own group—as we witnessed in Friday's voting—who felt that the Democrats did not drive a hard enough bargain. This is probably an area where, I feel, they were absolutely right. There are some who have described the deal between the Democrats and the government as akin to that between the Americans and the Indians over Manhattan Island, where the government got away with beads and blankets for Manhattan Island. I would have to say that I think that is a fair description of the willingness of the Democrats to accept the limelight at such a small price. This is an area where there has been massive avoidance and growth in avoidance—

Senator Woodley—During the previous government.

Senator CONROY—Thank you, Senator Woodley. I am glad you want to contribute to one of the debates; I am hoping you might speak on this one.

Senator Woodley—Yes, I would like to.

Senator CONROY—I wish you would, because I know what you truly believe. I know what is in your heart on these issues, Senator Woodley, as opposed to how you have been voting.

Senator Kemp—What a shocking thing to say!

Senator Woodley—He picks on me, you know.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Order! Address interjections and speeches through the chair.

Senator Murray—Don't impugn his motives.

Senator CONROY—I am not impugning his motives at all. I am just suggesting that Senator Woodley knows deep down that, in a few years time, when he goes back to work for the Uniting Church in the charity area, which I know he will do once he leaves the parliament, and he is face to face with the consequences of how he has been voting, he will look back and regret what he has done. I think that is what will happen, Senator Woodley.

Senator Kemp—You can get a two per cent return on your super fund.

Senator CONROY—Thank you, Senator Kemp. I can report to you that the TWU super fund for this financial year is going to have one of the highest returns among the industry funds, which I know you will be pleased about. I know you have been concerned about the returns for TWU members.

Honourable senators interjecting—
The ACTING DEPUTY PRESIDENT—Order! Senator Kemp, let us have a reasonably orderly debate.

Senator CONROY—I will happily take them on one at a time; I just wish they would interject one at a time, not both at the same time. This is an area which, as Senator Murray knows, I am very passionate about. We have clashed in the chamber on the issue of trusts in the past, and harsh words have been exchanged on this issue.

Senator Kemp—I'm surprised you're off the mat.

Senator CONROY—You should just stick to barracking for your footy team, Senator Kemp. Notwithstanding the interjection from Senator Woodley about it happening under the Labor Party, it is acknowledged that avoidance was happening under the Labor Party. The Labor Party had the tax commissioner, Mr Carmody—before he became a poodle to this government—come forward and say, ‘This is a growth area. This is a problem and here is what I recommend you do about it.’ That is what happened. We went to that 1996 campaign highlighting the sorts of revenue losses that were being gouged out of the government's tax base. I think Senator Cook has already described how individuals have not just one but 10, 20, 30 or 40 artificially organised trusts, just for the purposes of spreading it around and creating maximum confusion.

This is the sort of issue which this government has been loath to tackle. We have seen reports of the National Party and what they think about this issue. They have made it clear from day one that they will not be in it. They will not be in any meaningful addressing of the tax avoidance trust issue. The Deputy Prime Minister is on the record as saying, ‘We will roll it in cabinet.’ What about you, Senator McGauran? You have been attending those meetings. You have been prepared to make sure, in joining in that sentiment, that there is no way that you are willing to face up to it. I am pleased that Senator Kemp is still here and is still actively participating in the debate and interjecting from the other side, because we will be looking to Senator Kemp—

Senator Kemp—This is one of your weakest efforts.

Senator CONROY—I appreciate—as always—your support, Senator Kemp; but, if you can control yourself a little longer, we have a situation where this government has not been serious about trusts. That was evidenced by the trafficking in trust losses where, in actual fact, this government widened the loophole for trafficking in family trust losses. I know that that was a matter of some debate.

The Battlers of Brighton staged an enormous write-in campaign to the Senate committee that was investigating the issue. We had hundreds of letters from the Battlers of Brighton about the implications of trust losses and trafficking in them—notwithstanding that every person who appeared before the committee denied that they had ever seen any trafficking in trust losses. This bill had an opportunity to address a variety of the issues at stake. And we unfortunately have seen the Democrats squib it. I am disappointed that Senator Murray is briefly out of the chamber. I know he likes to stay—

Senator Woodley—He is coming back.

Senator CONROY—I am sure he is coming back and I am hoping he will, be cause there are a couple of comments that I would like to make with him present.

Senator Woodley—I will pass them on.

Senator CONROY—Senator Woodley knows that just taxing trusts at a company level, which is what the National Party committee is stopping, does not in actual fact fix this particular problem. It is not the panacea that the government have tried to pretend that it is. It is an important step; it will at least see a greater level of taxation of the distributions but it does not actually stop the complex avoidance arrangements that the rich end of town has practised, and continues to practise. We have not seen cries of outrage from the Battlers of Brighton with this particular bill, because it does not really address what they get up to.

Senator Jacinta Collins—Where do you live, Senator Kemp?

Senator CONROY—Senator Kemp lives very close to Brighton, thank you, Senator Collins—very close indeed. It is probably a coincidence that his brother is actually the member representing that area. That could be one of
the reasons. I do not think that whenever we have had a declaration of interests on these sorts of votes, Senator Kemp, you have ever had to disclose that you have a family trust. I think that is right.

Senator Woodley—Have you disclosed that you have a brother?

Senator CONROY—He has disclosed that he has a brother. He has snuck onto the political scene every now and then. Senator Kemp is, in actual fact, not one of those who has ever had to disclose, from recollection, this question of potential conflict of interest over trafficking in trust losses. But we are looking forward to the vote shortly on this issue—where, once again, the Liberal Party will be forced to fess up and forced to confess why they are not really dealing with this issue in this bill. We will see members and senator after senator get to their feet to declare that they are in actual fact involved in trusts. There were 19 in the last parliament, I think.

We have not bothered to go through and collect the list of names again for this debate but what we do know is that Senator Heffernan has some trusts—as we discovered recently. Senator Heffernan, the Cardinal—the `eyes and ears of the Prime Minister', as he likes to be known in New South Wales—is one of those people who have indicated that they are prepared to take up the concerns of the National Party. And that is why this is such a squib of a bill and why I say to Senator Woodley that, unfortunately, it is such a disappointment that the Democrats have signed up to a bill that does not actually deal with one of the core issues that I thought the Democrats represented in this chamber.

Senator Kemp—Are you supporting this bill?

Senator CONROY—I am a strong supporter of this bill. It just does not go far enough. And I am supporting the amendments. Perhaps you would be willing to support the amendments, Senator Kemp, just to indicate that you were fair dinkum. Do not be stood over by the National Party. Do not be stood over by Bill Heffernan, just because he is the Prime Minister's hatchet man. Do not be intimidated by him. Do not be intimidated by Senator Parer and his web of trusts. Do not let him stand over you. Indicate your support for these amendments.

As I said, Senator Woodley, it is disappointing that the Democrats have seen their opportunity go to waste for meaningfully addressing massive amounts of tax avoidance by the big end of town. The second biggest furphy about the GST package, and this bill as part of it, is that we will get those tax avoiders and make those people who do not pay their tax pay it. That has been one of the cruellest hoaxes in this debate, because the big end of town, because of weak tax trust laws like this, will still exploit and rip off, and we will still see many people paying minimal tax.

How does it work? I think Brian Toohey probably summed it up. Maybe some people in the chamber at the moment have read his articles. Maybe some people are familiar with this particular one. He said let us find out how fair dinkum these people are about trusts by abolishing the tax-free threshold and seeing how long all those people involved in family trusts actually stay in trusts—because once you abolish the tax-free threshold, you take away the incentive to be in them.

Then you would find out who is fair dinkum, who is about structuring their arrangements to pass on to the family the family farm that Senator Heffernan loves to talk about or that some of the other Liberals and Nationals love to talk about. Let us see what happens after you take away the ability to split income—because that is all this game is about when it comes to trusts and family trusts. It is about spreading your income among as many non-income earners as possible, to use their tax-free threshold. There are some people in this room who know that. Take away the capacity to access that tax-free threshold and let us see how fair dinkum they are. Take away the monetary incentive to be in a trust, and let us find out.

These are the sorts of issues that Treasury should have been putting up as part of the package. These are the sorts of issues they know they would have been run out of town on. They know that this is the sort of issue on which they could have made meaningful tax reform. The Democrats had the opportunity, but the blankets and beads from Manhattan Island were too much for them. It was all too much for them: having all the national media following them around for a few days saying, `Will you? Won't you?'; being invited into 4 Treasury Place and sitting around the table with the fine china out; the prime ministerial charm being on; the chockie bikkies being out instead of the Milk Arrowroots—
Senator Woodley—I wish I’d been invited.

Senator CONROY—I wish you had been invited too, Senator Woodley, because I might have had more confidence in where your party ended up. If I had known you were in the debate, if I had known you were reflecting what you truly believe—

Senator Woodley—I am reflecting on chocolate biscuits at the moment; I did not get any.

Senator CONROY—I would feel sold out too. But I tell you what: the rest of your party fell for the Tim Tam.

Senator Quirke—They couldn’t have taken Senator Woodley. He’d carve his initials in the table.

Senator CONROY—that is absolutely right. I do not blame you for being disappointed, Senator Woodley. I would be disappointed, too. I know Senator Kemp did not get any of the chockie biscuits either, because they did not invite him to the negotiations. We all saw who was there, and we know Senator Kemp was not.

Senator Kemp—I was in here listening to you.

Senator CONROY—Hopefully, you would have learnt something, Senator Kemp.

Senator Kemp—No, I learnt nothing.

Senator CONROY—Treasury have failed this country. Treasury have championed the GST and this package for 10, 15 or 20 years. Treasury officials who have been involved in this know what needs to be done in the taxing of trusts area. And where is it? They fight a constant battle to shore up the tax base as the accountants get more and more complicated and the lawyers find new ways to get round the system. Treasury and the tax office are left struggling, trying to fill in the loopholes. Here was their chance for a bit of integrity in the tax package. Here was the government’s chance to say to the Labor Party, ‘You will never be able to taunt us about family trusts again.’ It was your big opportunity, Senator Kemp, and you have left it to the Heffernans of this world, the Parers of this world, the national parties of this world. Julian McGauran has stood over you on this issue—

Senator Brownhill interjecting—

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Order! It is Senator McGauran.

Senator CONROY—Sorry; Senator McGauran has stood over you on this issue. And here he comes now, the eyes and ears of the Prime Minister, the Cardinal. Senator Heffernan has come in to make sure Senator Kemp does not weaken on this issue, to make sure Senator Kemp votes the way he is supposed to. He is not going to allow—

Senator Heffernan—He is God’s gift to the Grange women. Grow up, you dope!

Senator CONROY—Senator Heffernan, you need to be careful. If you want to get down in the gutter, Senator Heffernan, it is a two-way street—

Senator Heffernan—Grow up, you dope. Get to the Grange.

Senator CONROY—if you want to get down in the gutter, Senator Heffernan, you will regret it.

Senator Heffernan—Is that a threat or a promise?

Senator CONROY—No, I am just saying that you will regret it.

The ACTING DEPUTY PRESIDENT—Order, please, Senator Heffernan and Senator Conroy! No more interjections, please, Senator Heffernan.

Senator CONROY—I am pleased that I have excited some interest in the chamber tonight and I am pleased that some senators have come in to join in the debate. I look forward to them standing and giving a speech about some policy. I look forward to them breaking their duck. I look forward to them giving a speech on a bill about a policy, a tax policy—I would not mind it being any policy. There are 27 bills that we have been debating here today and over the last week or two, and you have had ample opportunity to pick one you knew something about and
stand up and talk. And what happens? You leave the chamber again after coming in for a few gutter interjections. There is an opportunity to debate the substance of the bill for 20 minutes tonight, and what happens? You come in, you make a few gutter interjections, and then you leave.

Senator Kemp often says it is 10 steps to courage. In the case of some senators in this chamber, it is as much courage as standing up in front of your microphone and talking on a bill. It is disappointing that they come in, they hurl the gutter insults around, and then they turn round and walk out of the chamber. But I guess we are used to it from some of the senators in this chamber. If you have managed to clock up an entire 15 minutes since you became a parliamentary secretary—15 minutes in eight months—I guess you are entitled to just wander in and out of the chamber and be the eyes and ears. But no, you reckon you are an expert on an issue, you are lobbying behind the scenes, you have more family trusts than you can count on one hand—you are entitled to lobby privately. But I just wish you would come in and lobby publicly and have the debate. Don't come in and stand over Senator Kemp like that and make sure he knows that the eyes and ears of the Prime Minister are bearing down on him. Come in and have the debate.

They are the sort of people you are associated with now, unfortunately, Senator Woodley: the sort of people who do not want to disclose where they have these sorts of interests, who do not want to meaningfully address the question of taxing trusts, who have allowed the deluge to get bigger and bigger till the drip has become a deluge. Then, when you get meaningful opportunity, Treasury squibs it and government squibs it. The last hope in the line here was the Democrats, and they squibbed it as well. It is disappointing. I know that many of the people listening tonight will be shaking their heads and saying, 'Well, what happened to the Democrats? They used to believe in social justice. They used to believe in meaningful tax reform. They used to care about the people downtrodden in our society. They used to represent those sorts of values.' But for a few trinkets, a few beads and blankets, the Democrats were willing to give it up. The microphones are available any time any senator wants to come back into the chamber. Rather than stick their head in the door and run away again, they have the microphone here. Twenty minutes is available for any senator who wants to come into the chamber right now, after I sit down.

It is a great disappointment to see where the Democrats have got to on this. They still have one last chance. There is an amendment here that will be about meaningfully taxing these tax avoiders and putting meaning into the Prime Minister’s words that we will get some of these people to pay tax at last. (Time expired)