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 KEMP (VIC—Assistant Treasurer) (9.15 pm)—I have been a member of parliament for about nine years and, to be quite frank, I do not think I have ever heard a worse speech. Senator Conroy rambled on, constantly repeating himself and filling up time, I might say, on the totally mistaken assumption that this debate was being broadcast. Didn't anyone tell Senator Conroy that it is not being broadcast? Had they done so, we might have saved ourselves a 20-minute ramble. It is useful to have a debate about some substance, but Senator Conroy's speech was utterly devoid of substance. He has adopted a style of constantly attacking the integrity of his political opponents, including my two colleagues Senator Bill Heffernan and Senator Parer.

Senator Conroy, you were given a challenge the other day. If you felt so strongly about these people and the personal attacks you made on their integrity, the challenge was there for you to repeat your accusations outside this chamber. But as always happens when people wish to use the cowards' castle, this chamber, to defame other people, you failed to repeat outside the accusations you made. It reflects rather badly on you, Senator Conroy. We know that you have your eye on Senator Faulkner's chair. After his performance in recent years there is clearly a vacancy going for the leadership of the opposition in the Senate. But even you will have to up your game, Senator, before you are able to achieve that prize. I thought there was some chance that you might have achieved this in the short run. I think that after tonight's speech you have to say that your ambitions will have to be put back on hold, at least for a while.

Senator O'Brien interjecting—

Senator KEMP—Senator, I do not have any ambitions. I am just here to do my duty and to make sure that good public policy is put into effect. From what I could ascertain from the Labor Party position, they are supporting this bill. That is excellent. There was very strong support from the Democrats for the bill. There was a lot of waxing on about trusts and Senator Conroy's concern. I guess Senator Sherry, who has been a member of the Senate a little longer than I have, would recall that Labor was in office for 13 years and did absolutely nothing.

The trouble is that the Labor Party has got form on so many issues. Labor stands up in debates and attacks the government for this and that and people say, 'Hey, what's the Labor Party policy?' No-one knows what the Labor Party policy is, to be quite frank, because an absolute prohibition has been put on Labor Party people making serious policy statements. It is absolutely pathetic. You say, 'They were evincing enormous concern about trusts' and we say, 'Well, they were in government for 13 years. What did they do about it?'

Senator Jacinta Collins—Not a GST.

Senator KEMP—No, there wasn't a GST. That is true. There was no tax reform under the Labor Party. Looking back on those 13 wasted years, it was a great pity that we did not have a government that was prepared to take a lead and pursue difficult policy positions for the good of the country. The trouble is that the Labor Party has got form. Even worse, from your point of view, Senator Collins, the Labor Party is completely irrelevant to major policy in this country. You ducked the challenge on tax reform. We are all waiting to see your approach to the Ralph reforms. Given Senator Conroy's performance today—I think he is your leading spokesman in this area—you would not hold out any hopes. You would not hold out any hopes at all that a sensible policy position will emerge from the Labor Party. That is a great pity for the Labor Party, but it is a sad reflection on what was once
a party that enjoyed some community respect. Now it is just a joke. It has a leader who is a joke. It has a shadow minister for financial services who rambled on for 20 minutes.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Senator Kemp, that comment should be withdrawn. It is unparliamentary.

Senator KEMP—Which comment?

The ACTING DEPUTY PRESIDENT—The comment about the joke. It should be withdrawn. It is unparliamentary.

Senator KEMP—I am always one to ensure that my comments are of a parliamentary nature. If I stray to an unparliamentary phrase, I certainly withdraw it.

The ACTING DEPUTY PRESIDENT—Thank you.

Senator KEMP—You would have to agree that that was a very gracious withdrawal.

Mr Acting Deputy President, the measures before us are part of a tax reform package. These measures are meant to counter practices where entitlements pass through a series of trusts. For instance, part or all of the net income of a trust may be passed through a series of trusts with no ultimate beneficiary being assessed on that income, either because there is no ultimate beneficiary or because the ultimate beneficiary cannot be identified. Other assets of a trust may be said to be distributed through a series of trusts, yet the assets may never be reflected in the assets of any ultimate beneficiary, or there may be taxpayers whose assets are said to reflect trust distributions which cannot be traced back to the succession of trusts to which they are ascribed.

To control the use of such trusts to avoid tax, these bills require trustees of closely held trusts with trustee beneficiaries to disclose to the Commissioner of Taxation the identity of the ultimate beneficiaries of a trust net income and taxed preferred amounts to which another trust is entitled. The commissioner needs this information to check that the beneficiary who should do so has included his or her share of the net income of the trust in his or her assessable income for the year and to make sure that a beneficiary's assets include any tax preferred amounts which should be included. To reduce compliance costs, a certain number of closely held trusts, such as compliant superannuation funds and deceased estates, have been excluded from the measure.

Furthermore, a trustee need trace an entitlement to net income no further than any range of listed persons, including exempt bodies, charitable trusts and widely held trusts. This also reduces compliance costs. Where a trustee does not give the necessary information in relation to net income of the trust, the bills will impose tax on the trustee in relation to that part of the net income at the top marginal rate plus Medicare levy. If a trustee of a closely held trust does not give the required information about a tax preferred amount, the trustee may be guilty of an offence. We will of course not be supporting the second reading amendment moved by the Labor Party. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—There is a second reading amendment moved by Senator Cook on behalf of the opposition. I intend to put the amendment.

Question put:

That the amendment (Senator Cook's) be agreed to.