



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**CORPORATIONS AMENDMENT
(IMPROVING ACCOUNTABILITY ON
TERMINATION PAYMENTS) BILL 2009**

Second Reading

SPEECH

Wednesday, 9 September 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Speaker Neumann, Shayne, MP	Question No.

Mr NEUMANN (Blair) (12.18 pm)—I speak in support of Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009. I can recall vividly a conversation I had with a fellow one Saturday morning in my mobile office at Brassall shopping centre in my electorate. He told me that he was an ‘average worker’, to use his expression. He said—and I will not use the language in this House that he used to me—that there were executives and directors who parachuted themselves out of failing companies and left their shareholders and the general public aghast at the excessive payments they received upon termination. The sheer outrage of this gentleman, the sheer frustration and fury in his voice that day, I will never forget. But his is not a lone voice. His is a voice of many people in our community who express fury and utter disgust at the many executives, directors and those in leadership positions in some of our biggest companies who at times of great difficulty and global recession, when their companies profits are down and their shareholders are suffering as a result of the dividends paid based on their shareholdings, decide that it is appropriate to take termination payments of an extraordinary amount.

This has been going on for decades. We have seen companies such as Telstra, Pacific Brands and Qantas—there are so many others I could name—where this has happened. We need to get the balance right, as the member for Pearce said. We need to ensure that we keep our best and brightest at home. About a million Australians live overseas, many of them working in top legal firms, banks, finance companies and corporate entities across the world. You can see Australians everywhere as you travel through Asia. There are many in the Middle East in places like Dubai and Hong Kong, in Europe in places like Paris and London, and in New York and other places. We need to make sure that our executives at home are remunerated appropriately and that we can keep our top executives at home, but we cannot have a situation where it is unbalanced. We cannot have a situation where workers struggle day in and day out to get the kind of wages they need—sometimes they negotiate individually and sometimes collectively through their unions—from management in large corporations. These may be in mining, resourcing or other areas like banking or finance. They find chief executives—key personnel in management—who when things go wrong say, like Pontius Pilate, ‘I’ll wash my hands, take a large payout and go and live elsewhere in the lap of luxury.’ Alternatively, they will live with considerable affluence in their retirement or go from board to board. This is so annoying to the general public.

We need to make sure that our executives are paid properly. Their salaries and entitlements and their share in profits and dividends should be appropriate. I agree with the member for Pearce: we need to get the balance right. But it is unbalanced, and there is nothing you can say to my constituents in Blair or the general public that will convince them otherwise. It is absolutely crucial that the Productivity Commission come down with a good recommendation for a new system of regulatory arrangements in relation to directors and executive remuneration. We cannot have a situation where it is not reviewed. It needs to be a wide-ranging review and I commend the government for what it is undertaking in this regard. We cannot ignore international trends, but we need to make sure that corporate greed is stamped out in this country.

We have about four million people working for small business in this country. There are actually more small business operators than there are trade unions. Those people do not have access to these golden handshakes, and they are just as angry at what goes on as the constituent of mine who came to see me that Saturday morning at Brassall Shopping Centre. It is clearly unbalanced.

I am appalled when I see some of the submissions that were made to the Senate inquiry. Many of the companies and business organisations that were so quick to criticise the government—so quick to look at this and so hands-off when it comes to government intervention in this area—were quite happy for legislation like Work Choices to come in and adversely impact upon the salaries, wages and entitlements of average workers. They were so quick to say: ‘Government should have no role in this. We should leave it up to shareholders.’ But, with non-binding resolutions and only 15 instances in the last year out of a possible 300 where shareholders actually passed resolutions rejecting what directors said at AGMs in relation to remuneration, that is simply not good enough.

Shareholders clearly do not have the power they need to under the Corporations Law. It took a long time through the COAG process for the Corporations Law as we know it today to actually come into being. I am sure our founding fathers would have done something very differently if back in the late 19th century they could have foreseen multinational companies and the way businesses would evolve and develop over decades and decades. We cannot have the same sort of robber baron mentality in our corporate sector—in big business, finance, mines, energy and other areas—that we saw in the late 20th century in America and, to a lesser extent, Australia. We need to have fairness, equality and justice when it comes to these sorts of things.

The legislation before the House is important legislation and it accords with the wishes and aspirations of the general community. I believe strongly that the constituents in my electorate of Blair in South-East Queensland would support this legislation, and I am pleased to be speaking on it today. Its purpose is to make company directors and senior executives more accountable. It is important that we link termination payments to fair remuneration. Many times workers leave and get paid their holiday pay, their sick pay and an ex gratia payment because of their length of service. Many times employers and employees have good relations. In fact, it is important that that be the case. I was in business for a long time and I know how important it is to have a good relationship with your employees.

Out of generosity, not charity, and in appreciation of what their employees have done in that business, company or partnership over many years, many employers pay money as a going away present. I have done it myself and I know many employers who do it. But you cannot have a situation where corporate executives take up to seven times their package in remuneration and think that is not going to have an impact on whether shareholders perceive justice and fairness, particularly in circumstances where their dividends are going down as a result of the global financial crisis. When workers know, particularly in areas like catering, cleaning, child care and others, that their salary has suffered under Work Choices and they look at what chief executives get when they decide to take a golden handshake, they are furious. That anger in my view is righteous.

I am pleased that the Treasurer and the Assistant Treasurer, who was then the Minister for Superannuation and Corporate Law, issued the joint media release on 18 March to say that the Productivity Commission would examine the regulation of golden handshakes in this area. It is long overdue, and the previous government should have done it. Whilst quite happy to attack the salary entitlements of workers through Work Choices, they were not prepared to do this when it came to chief executives and key personnel in management in the corporate sector. It says a lot about the motivation of the previous government.

I am pleased that what we have done here is expand the definition of a termination payment to catch all types of payments and rewards provided at termination. Because of the miracles of modern accountancy, corporations can structure their entitlements in such a way as to get around the problems, vicissitudes and challenges of this area to pay large sums of money to executives. It is not just the readers of the *Australian Financial Review* but also the readers of the *Daily Telegraph* who are angry about this.

With respect to the base salary, I think that is a worthy amendment. I think that the base salary should be defined in the regulations to give the law flexibility. I accept that, but I think that what we need to do is make sure that the base salary is really a base salary and not one with all the add-ons we have seen key personnel and management in the corporate sector avail themselves of in the past to supplement their golden handshakes.

The clarification and expansion of the definition of a termination payment is extremely important. The regulation giving the power to prescribe whether certain benefits and payments come within the operation of this piece of legislation is also a vital reform. The significantly higher penalties, with potential fines now set for individuals at \$19,800 and for corporations at \$99,000, are certainly welcome. But the average person in the street would probably think that they are still too low, based on the kinds of golden handshakes some chief executives and company directors have received over the last few years. Particularly at times of challenge and crisis, the Australian public has historically shown that it is keen to ensure fairness, justice and equity in the workplaces and companies of our nation, because we are all in it together. When someone gets a free kick the average person does not like it, and rightly so.

I am pleased that we have seen, in this bill, the widening of the scope of individuals subject to the regulatory framework of this legislation. Extending the application of the law to key management personnel is important because there are many people in companies who decide things. Companies are usually made up of very senior management: often a CEO, a chairman of the board and a board of directors. And big companies have a great deal of administration. We see that in terms of bureaucracy in governments, but we also see that in our big

corporations. So clarifying who is captured by the regulatory framework is important, and expanding that to capture other key management personnel is a crucial reform.

We cannot let the status quo continue. It is just untenable in the mind of the Australian public. You cannot have excessive termination payments paid to company executives in circumstances where the average Australian is subject to the rigours of the global financial crisis, CPI increases to pensions have caused pensioners to feel that they are not being paid enough, workers in low-paid areas with a lack of bargaining power have felt that they have been disadvantaged under the previous government's Work Choices regime and farmers are struggling with climate change—as they are particularly in my area, in the Fassifern Valley and the Lockyer Valley and the rural parts of Ipswich. We cannot have a situation where shareholders feel absolutely and utterly aggrieved at greedy corporate barons taking golden handshakes in circumstances where the companies are failing and their dividends are lower than ever before.

This legislation is important because it is about a timely intervention in the corporate sector. It is about ensuring greater power for the Australian public, and, by legislation, ensuring greater responsibility in our corporate sector. It is about making sure that those who are given the charge of responsibility for not just products, services and goods but the lives of the men and women in their companies and the consumers of Australia are accountable, responsive and responsible in circumstances where we face such a challenge economically.

So I am very pleased to support this bill. I believe it will not militate against ensuring our chief executives stay at home and do not go abroad. I believe that the member for Pearce is wrong in thinking that this legislation is not timely. I think she is also wrong in thinking that somehow the corporate sector should be left alone. I think it is important that we ensure that they are given a very clear message: they need to behave responsibly in all the circumstances. I support the legislation.