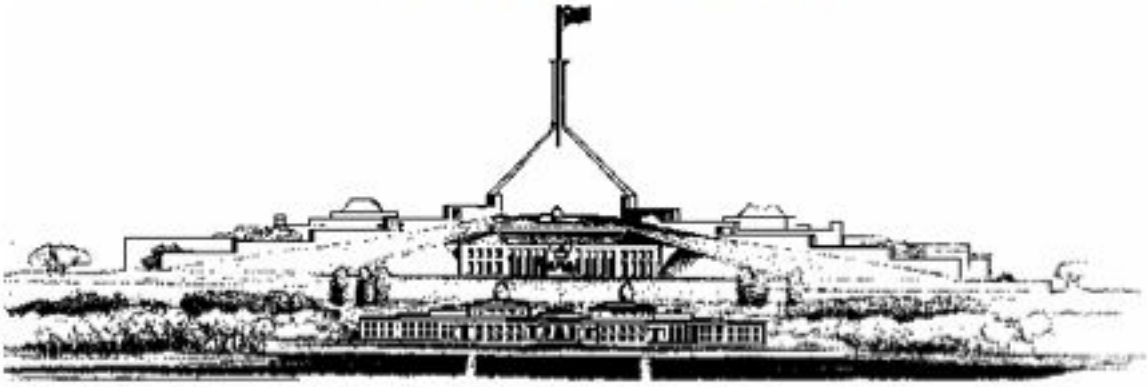
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

COMMITTEES

Economics Committee

Report

SPEECH

Thursday, 24 November 2016

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner		**Responder**	
Speaker	Thistlethwaite, Matt, MP	**Question No.**	

Mr THISTLETHWAITE (Kingsford Smith) (10:30): by leave—I speak on behalf of the Labor members of the House of Representatives Standing Committee on Economics in saying that we reject the government members' report and we have submitted a dissenting Labor members' report. Australians need and Australians want a royal commission into the banking and financial services industry. This report of the government members represents the Turnbull government siding with the big banks. Labor has been listening to the victims, the Australian people, who are fed up with the actions of the banks and want something done about it. They want greater scrutiny of banking practices, they want the bank rip-offs to stop, they want the bank culture to change and they want redress for victims when they fall foul of this insidious banking culture. The Australian people want a royal commission into the banking industry. It is the Australian people that have been calling for the royal commission, and Labor is listening, and this is reflected in the Labor members' single recommendation as a result of this inquiry, which calls on the government to immediately establish a royal commission into the banking and financial services sector in Australia.

The Labor members' report goes in some detail into our views of the purposes of this House of Representatives economics committee inquiry, and it is our view that this inquiry into the banking industry through the House of Representatives economics committee has been established for one purpose and one purpose alone by this government—and that is to avoid a royal commission into the banks in this country. Mr Brian Hartzer, the CEO of Westpac, admitted in his evidence to the committee that this issue was discussed with the Treasurer prior to the committee even being established. Under questioning from me, Mr Hartzer admitted that the issue of a royal commission and this inquiry was discussed with the Treasurer's office prior to the inquiry even being established. It is evident that the banks were aware of the dates that this committee would be hearing the evidence in Canberra before the Labor members were even appointed to the committee. When the Labor members tried to alter the dates of the committee hearings here in Canberra to take evidence from the banks to allow more time for preparation for the committee and a greater amount of time to question the banks, the Liberal members used their majority on the committee to deny that request. It is evident that the dates for this banking inquiry were predetermined with the banks before the committee was even established. Again, this represents the government doing the bidding of the big banks in this country.

The Labor members' report goes into some detail of the banks' unethical behaviour and customer rip-offs. It is not just the Labor Party that holds a dim view of what has been going on in the banking industry over recent years. No doubt the Australian people have a similar view, but even the new Reserve Bank governor, Philip Lowe, admitted recently during a hearing of the House of Representatives economics committee that he holds such a view. When asked about the culture of the big banks at the moment, his reply was:

I cannot help but agree with you that there have been too many examples of poor outcomes, particularly in the wealth management and insurance industries. That is disappointing to us all.

That is the view of the Reserve Bank governor in Australia, the principal economist appointed to oversee the stability of our monetary system and our banking system. When the CEOs of the banks appeared before us, they all began with apologies. They admitted that all the scandals and all of the rip-offs represented their organisations doing the wrong thing by the Australian public.

We then look at some of the actions of ASIC and the number of planners and financial advisers who have been banned because of poor behaviour in the banking industry. The Commonwealth Bank has had 20 advisers banned, the NAB has had 21 planners banned, the ANZ has had three planners banned and Westpac have had two planners banned. We talk about the Commonwealth Bank's open advice review, which led to a thorough review of all of the files and all of the clients who have been wronged by the Commonwealth Bank's financial planning arm and the fact that there are still many clients and former clients who remain unhappy with this process. We look at the scandals in CommInsure and the fact that ASIC has recently reviewed the life insurance market and found that, on average, there is a decline rate for life insurance claims of 16 per cent, with some organisations with

average rates as high as 37 per cent. We look at the 2016 ASIC matters that have been inquired into by that organisation in respect of the banks.

We make some very detailed comments about the Reserve Bank cash rate and the fact that all of the bank executives gave evidence to the inquiry that the RBA cash rate was not the major determinant of the way in which they set their mortgage rates for customers. Yet a mere number of days after the bank executives had given this evidence to the House of Representatives economics committee, Greg Medcraft, Chairman of the Australian Securities and Investments Commission—himself a former banker—said in evidence to the House of Representatives economics committee and tabled a briefing note showing that bank funding costs 'completely tracked' the cash rate, which he said reflected the fact that '60 per cent or more of their funding comes from deposits which are based on the cash rate'. So there you have completely conflicting evidence from the bank executives and from the head of the regulatory body entrusted with the job of overseeing their operations. Is it any wonder that Australians are fed up with the actions of the banks? They are entitled to ask why there is little or no competition in this particular market in the banking and mortgage sector industry in Australia.

We then look at some of the bank structures and the poor outcomes that are incentivised in their organisations. I am speaking here of the cross-selling of products to customers, particularly insurance and credit products, when they may not be in the customer's best interests. We have all experienced this. You go into your local bank branch to do some banking and, no sooner have you mentioned your name to the teller, they are trying to sell you a credit card or they are trying to sell you some form of insurance. What most Australians would not know is that it is not the teller's fault, it is not the employee's fault; it is almost part of their job description. They are incentivised to try to cross-sell these products to their customers, and the incentives are in the form of bonuses that are reflected in their pay structures.

Although we have recently had the Future of Financial Advice reforms, which detail that, in such occurrences, the teller should always act in the best interests of the customer, FoFA does not apply to a lot of products that are being sold by these organisations, particularly credit products. Many of the representatives and employees will have sales targets that are linked to their pay. Most of the banks denied that this was a big issue with their employees. They said that they all operated what they call 'balanced scorecards' and that there are other factors like customer satisfaction, safety and other issues that go into the make-up of this balanced scorecard. But, when we look at all of the banks' so-called balanced scorecard approach, up to 30 per cent of that scorecard is made up of sales.

Sales typically appear to be the only issue that is discussed between the employee and their management when it comes to looking at that balanced scorecard. The National Australia Bank chief executive admitted that if an employee is not achieving their required sales target through that balanced scorecard approach then that may result in them being put on a performance improvement program and that may ultimately lead to them being dismissed for not meeting those targets. That is ingrained in our banking sector. All of them do it. Admittedly, Westpac appear to be moving away from it. They have admitted that they are moving away from this type of approach to setting pay in their latest round of enterprise bargaining negotiations. But that only applies to the Westpac core banking group; it does not apply to some of their subsidiaries like St George.

All of the banks operate what they call leader boards, which are basically league tables of where your branch sits within the network on how you are performing with sales. Many of the employees and union members that we spoke to told us that this is the key issue. 'Every day the managers are pushing. We've got to increase our position on the leader board by selling more products to customers.' That is the culture in which the banks are operating in Australia and that is why we are getting these poor outcomes for consumers.

The evidence that has been given also is that the current regulatory environment is simply inadequate to deal with some of these scandals and these issues. It is evident in the number of rip-offs and scandals that we have seen in the banking industry over recent years. It is evident in the fact that a number of whistleblowers said that when they took cases of unethical behaviour or wrong behaviour to their immediate managers, they were told, 'Don't worry about it; we'll have a look into it' and nothing was done.

In the Nguyen case in respect of the Commonwealth financial planning arm, it took the whistleblowers actually walking into the office of ASIC to get someone to take notice of what they were saying and get some action taken. These people had written emails, they had written faxes to ASIC and no-one took any notice. They had to blow their cover and walk into the ASIC offices and say, 'You need to have a look at this.' It led to ASIC having

a look at it and, of course, this led to the Commonwealth financial planning scandal, which has already been the subject of two Senate inquiries in this place and led to, literally, thousands of files having to be reviewed, many people having their financial licences banned and many Australians losing quite a bit of money.

The other point that was made through these inquiries is, unfortunately, it takes an individual going to the media to get the banks to look at their issues and to get redress; indeed, for the financial services ombudsman to look at some of the issues. The other point is that the regulators have made the case that they are simply not properly funded to adequately oversee what is going on in the banking industry. The government members on the committee have made a number of recommendations in the report about additional responsibilities for FOS, for the ACCC, for ASIC and for APRA. They want them to take on additional responsibilities—it is evident in all of their recommendations. But there is no additional funding recommended at all by the government members in their report to ensure that the regulators have the wherewithal to undertake those additional inquiries. This is evident in the committee evidence that was received from Rod Sims, the chairman of the ACCC, who made the point that the agency cannot even look into competition in the banking industry of its own initiative. Here you have the competition regulator and they cannot even have a look at what is going on in terms of competition in the banking industry without a referral from the minister, from the government—and they have not received that. This is a clear difference in the way that the UK competition operator does its work. I then put the question to Mr Sims, 'If you did have that power, do you think you would be able to do that work?' He said, 'We're not properly funded to do that work anyway at the moment.' This is an issue that is not dealt with by the government members in their report.

We then go on to talk about the lack of executive accountability. Of all of the scandals, of all of the wrongdoing, of all of the victims in the banking sector over the course of the last few years, not one banking executive has lost their job or been punished because of what has gone on.

The greatest irony in all of this is that the person that blew the whistle on what was happening in CommInsure in the Commonwealth Bank, Dr Benjamin Koh, had to go to an executive independent member before he got any action on highlighting the fact that planners were asking him, as a doctor, to amend his medical reports to deny insurance claims. When he blew the whistle on this, he was investigated by the Commonwealth Bank and, ultimately, dismissed. He is now the subject of an unfair dismissal claim before the Fair Work Commission. It should not have to come to that.

No executive faced any accountability for the actions of the banks over the course of the last few years. We make the point that the UK Financial Conduct Authority has strengthened their accountability framework to make bank executives more accountable. All of this evidence highlights the point that we need a banking royal commission in Australia.

I want to finish with a couple of comments regarding the government members' recommendations. To try an avoid a royal commission, their principle recommendation is to establish a tribunal that replaces the Credit and Investments Ombudsman, the Financial Ombudsman Service and the Superannuation Complaints Tribunal. Let me tell you, this proposal is half-baked. It raises more questions than it answers. The member for Burt, in his questioning of the bank executives, was able to elicit from Brian Hartzer, the CEO of Westpac, that this issue of a tribunal was discussed between himself, the Treasurer and other banking executives at a meeting prior to the House of Representatives Economics Committee inquiry even being established. It is clear that the fix was on and that, prior to the inquiry even being established, this tribunal was discussed between banking representatives and members of the government as a way to avoid a royal commission in Australia.

Consumer advocates have raised deep concerns about the tribunal and many believe that it will result in worse outcomes for consumers. In their report, the government members are unable to state how this tribunal will work, particularly in its structure. Will it be based on a member-based mediation service, similar to the FOS, or will it be a statutory body with judicial qualities, like the SCT? Who will preside over it? What will be the jurisdictional limits? What will be the scope of matters to be dealt with? What procedures and rules will this tribunal operate by? Will the rules of evidence apply? What will be the role of lawyers? What will be the rights for appeal?

In all of these issues, the government members point to the fact that there are two further inquiries going on: the Ramsay inquiry into external dispute resolution and reviews being conducted by ASIC and FOS into FOS's small business operations. Their answer to those questions is to refer them to a further inquiry. Again, it is half-baked, it is underdone and it just reflects, in my view, that this whole process has been rushed. The whole process

of this inquiry has been rushed, and these recommendations have been rushed, with one view in mind from the government: to avoid the establishment of a royal commission.

The Labor members and the Australian public are sick and tired of this avoidance of scrutiny of the actions of the banks. They want a royal commission. That is why Labor has recommended, in its submission to this inquiry, that a royal commission be established into the banking sector.

In conclusion, I thank the secretariat for their very hard work. I look forward to working with them in future to hold these banks to account.