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PARLIAMENTARY DEBATES



THE SENATE

PROOF

BILLS

Fair Entitlements Guarantee Bill 2012

Second Reading

SPEECH

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BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Urquhart, Sen Anne

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Senator URQUHART (Tasmania) (10:30): Today, Labor moves to enshrine in legislation, through the Fair Entitlements Guarantee Bill 2012, the protection of worker's entitlements when their employment is terminated and their employer cannot meet these obligations, and when people's hard-earned entitlements such as annual leave, redundancy, payment in lieu of notice, unpaid wages and long service leave have been wrongly spent and are gone.

Since 2001 in Australia, workers made redundant whose company could not meet its obligations were covered under the General Employee Entitlements and Redundancy Scheme, GEERS. Initially, GEERS only guaranteed redundancy payments of up to eight weeks pay, depending on an employee's length of service. This was despite many workplace agreements mandating redundancy payments well in excess of this—agreements that workers and management had negotiated in good faith and both sides were expected to deliver upon.

Of course, this initial move was welcomed as it at least provided some compensation to redundant employees of insolvent businesses. But the trade union movement did not let this matter rest. Only in 2006 did the coalition amend GEERS to provide for up to 16 weeks redundancy payment. While once again this improvement was welcomed, it was still an injustice to the many thousands of working Australians whose lives had been up-ended through no fault of their own.

An election commitment from the 2010 federal election titled the 'Protecting Workers Entitlements Package' was released by Prime Minister Gillard in July 2010 at the AMWU national conference. The Prime Minister promised to change GEERS to provide workers' full entitlements as specified in their industrial agreement. In one of their first actions after re-election, the then Workplace Relations Minister, Chris Evans, and parliamentary secretary Jacinta Collins amended GEERS to fix the redundancy pay issue from 1 January 2011. This has meant that, since then, workers made redundant by a company that could not meet its obligations could receive a redundancy payment as specified in their industrial agreement of up to four weeks per year of service.

On this side of the chamber, we believe that redundancy is a tough enough issue to deal with

emotionally and economically without the added stress of missing entitlements. Importantly, today's debate is also about making the Fair Entitlements Guarantee a legislative rather than administrative instrument. At the 2010 AMWU conference, Prime Minister Gillard promised to replace GEERS, which is an administrative system—meaning that it can be changed overnight by the minister—to the Fair Entitlements Guarantee, which will be enshrined in legislation to ensure it cannot be easily abolished or watered down.

I have represented working Australians for over 30 years. Through those years my union, the AMWU, and I have campaigned for improvements to Australia's workplace relations system across a range of areas. For a lot of my time representing workers in Australia's manufacturing industry, fighting for the payment of entitlements to redundant workers has been a significant campaign.

So why does this protection need to be legislated? Australians know from the amendment proposed by those opposite that if they were to take office, one of Senator Abetz's first actions as workplace relations minister would be to re-introduce a low cap on redundancy payments under GEERS. What other changes they might make is a scary thought.

The opposition are proposing an amendment to cap redundancy payments at 16 weeks.

As I have already outlined, it was capped at a measly eight weeks when they enacted GEERS in 2001. That is only two months redundancy payment for workers who had negotiated an agreement to provide for a decent payout when the average span of unemployment after being made redundant is much higher than that. In justifying their decision and their desire to penalise workers for the poor decisions of management, the opposition try to take the moral high ground. A coalition talking point used is 'an acceptable community standard for redundancy pay'. In the other place, opposition members were even stooping as low as to claim that the sixteen-week cap under the old administrative arrangements was overly generous and out of step with community standards.

Given their desire to utilise acceptable community standards in this debate, I would like those opposite to recall again the journey of the 105 redundant workers at

the ACL factory in Launceston—recall what a sixteen-week cap meant to them. In August 2009 ACL entered into voluntary administration, placing the jobs of up to 300 Tasmanian workers at risk—not to mention the flow-on loss of jobs. However the ACL voluntary administration was unique: as the company was the sole supplier of engine bearings for Ford Australia it sought to continue trading with a receiver manager. Unfortunately, the receiver manager quickly deemed that 105 redundancies were necessary.

As an organiser at this factory for a number of years, I got to know a lot of the workers very well and days like that were terribly disappointing. The shock of redundancies was one thing; discovering that the bank was empty and no funds were available for entitlements was a whole extra shock. ACL's director, Ivan James, had used his employees' entitlements as a high-risk, short-term loan, which the company had no capacity to pay back. This left ACL's redundant staff with nothing from the company.

Most of the people had worked at ACL for many years—some over 40 years. They had collectively gone without pay rises and taken on fewer hours so that they could all keep their jobs and keep the company going. At the same time, Mr James contributed to the issues the company was facing by reducing his income to a dollar a week for a short time, as he advertised on SBS *Insight* around that time. However, once the company received government assistance, Mr James went back to his voluptuous salary of over \$7,000 a week. But that was not enough: he then awarded himself a rise of \$2,000 per week, putting his salary around \$9,000 a week. Some would say this was to make up for lost time. The workers saw it as a massive kick in the guts.

The government somewhat assisted these workers through GEERS, and I say 'somewhat' because these workers were given a redundancy payout of up to sixteen weeks pay when some of these employees had been with ACL for decades. Their enterprise agreement provided for four weeks pay for every year of service in the event of a redundancy with a cap of 96 weeks for workers who had in excess of 25 years employment. There was one worker, who had over 40 years of service, who would have been owed about \$110,000 but, because of the limits of GEERS at the time, got only \$28,000—that is a worker whose family missed out on over \$80,000, a payment that could have seen this worker enjoy a decent retirement; a payment that would have been a respectful end to his years of commitment and hard work he had given to the factory.

Earlier this year the workplace relations minister, Bill Shorten, made an administrative decision to provide up to an additional eight weeks pay per employee. This extra redundancy payment for almost 100 former ACL

workers, some of whom have not had regular full-time work since, means that while they are unlikely ever to recoup their full entitlements, that they received some additional assistance to help with the day-to-day cost of living pressures.

The story of ACL also includes 33 workers made redundant in mid-2011. Thanks to the Gillard Labor government, the federal Labor member for Bass, Geoff Lyons, and the AMWU there was a positive light for these workers. While they were faced with the terrible news that they were being made redundant, the amendments made to the GEERS operational arrangements in January 2011 saw them receive their full redundancy entitlements: four weeks for every year of service up to a cap of 96 weeks.

Given the amendment put forward by the opposition, working Australians should have no doubt that a vote for the coalition means a vote for lower wages and conditions. On this side we seek to empower Australians, to provide opportunities for all Australians. Those opposite are today continuing with their antiworker ways by not only proposing an amendment in the House to reduce entitlements for long serving but no doubt here today voting against the legislation. From today we will finally have a fair redundancy entitlements system in this country enshrined in legislation, a system that is only possible with a Labor government—a government that puts the interests of hardworking Australians at the fore of our being every day. I commend the bill to the Senate.