



Speech by

**Hon. M. FOLEY**

**MEMBER FOR YERONGA**

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Hansard 25 November 1999

**MINISTERIAL STATEMENT**

**Workers' Entitlements**

**Hon. M. J. FOLEY** (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (9.51 a.m.), by leave: Workers have a right to better protection against having their wages and other entitlements ripped off by company directors entering into shonky transactions to avoid their obligations to their employees. The infamous Patrick waterfront dispute has taught us that.

**A Government member:** Santoro knew about that.

**Mr FOLEY:** Yes, Mr Santoro's mates; that is right. Since the Beattie Labor Government was elected in Queensland, we have endeavoured, with other Labor States, to push the Federal Government to provide better protection for workers' rights under Corporations Law. I am pleased to be able to inform the House that, after concerted efforts by Labor Attorneys-General, a significant change in the Federal Government's attitude was achieved at the Ministerial Council for Corporations, that is, Minco meeting in Canberra earlier this month.

At that meeting, the Federal Government gave long-overdue agreement to proposals for a provision which would enable the court to make orders for the payment of debts specifically owed to employees where a company director has been found guilty of entering into a transaction for the purpose of avoiding payment of employee entitlements. This is a significant shift from the outrageous, bullyboy tactics employed and promoted by the Federal Government during the divisive waterfront dispute.

At the July Minco meeting in Sydney, Labor Attorneys-General were able to secure the Federal Government's agreement to amend the Corporations Law to include two new provisions, which was the first real achievement in our goal to ensure further protection of workers' rights and entitlements in the event of company insolvencies. The amendments agreed to are—

- (a) a new offence to penalise anyone who enters into arrangements or transactions for the purpose of avoiding payment of employee entitlements, or of significantly reducing the amount of entitlements that employees can recover; and
- (b) deeming that a company incurs a debt for the purposes of the insolvent trading provisions when it enters into an uncommercial transaction, thereby extending the current duty on directors not to engage in insolvent trading.

The Federal Minister for Financial Services and Regulation, Joe Hockey, in a letter dated 11 November 1999 advised that the Federal Government has agreed to a further provision—

- (c) if the court is satisfied that the person has contravened the new offence, proposal (a), then that person could be ordered to pay compensation to employees who have suffered loss or damage arising from the contravention or from action taken to give effect to an agreement or transaction involved in the contravention.

This will cover wages, superannuation contributions, injury compensation, leave entitlements and retrenchment payments.

I note that further discussions were held at the recent Workplace Relations Ministerial Council meeting held in Sydney on 19 November 1999 on developing complementary Commonwealth and State legislation to establish a national scheme to guarantee payments to employees of certain employment conditions in the event of employer insolvency. The Queensland Minister for Employment,

Training and Industrial Relations, the Honourable Paul Braddy, signalled this Government's willingness in principle to favourably consider financial participation in a national scheme.

In addition, the New South Wales Labor Government also acknowledged the importance of a national approach and undertook to consider its approach to the State making a financial contribution. The Labor States were successful in ensuring that the Commonwealth will now enter into further consultations and cooperation at an officer level with the States and Territories on the development of the design of such a national scheme. However, I urge the Federal coalition to follow up on those agreements with prompt action.

We must do all in our power to avoid the tragic and disturbing cases where loyal workers, after years of service, are left stripped of their accrued entitlements through company insolvencies. I can assure Queensland workers that this Government is committed to that end.

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