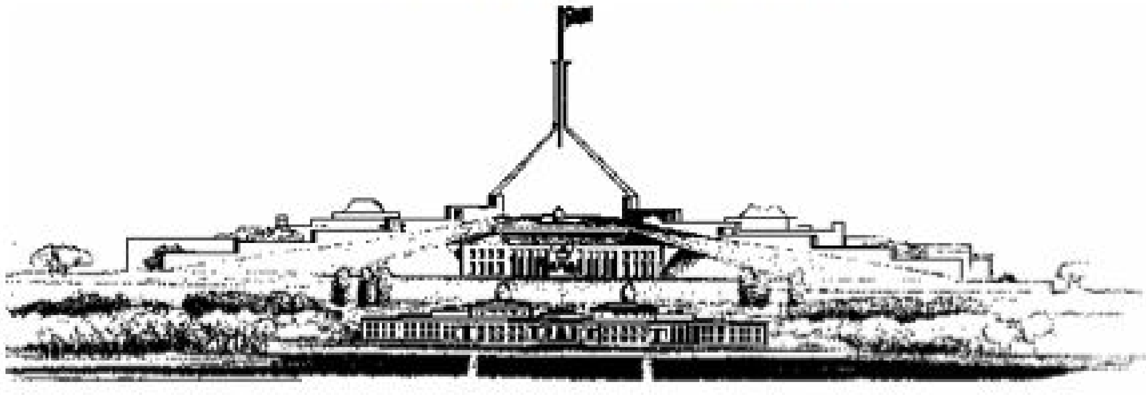
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

Federation Chamber

ADJOURNMENT

FoFA

SPEECH

Thursday, 17 July 2014

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Thursday, 17 July 2014	**Source**	House
Page	148	**Proof**	Yes
Questioner		**Responder**	
Speaker	Vamvakinou, Maria, MP	**Question No.**	

Ms VAMVAKINOU (Calwell) (10:23): In light of the disappointing developments in the Senate on Tuesday night, which saw the Palmer United Party assist the government senators to scrap important financial advice regulations, I want to highlight the case of a constituent in my electorate whose life has been turned upside down as a result of rogue financial advisor and, in doing so, highlight the value of the Labor government's reforms to the financial sector that have now been scrapped.

Bernard Kelly came to my office last week to describe to us the ongoing heartache he is suffering in the wake of the collapse of Timbercorp. He is not alone. There are thousands of Australians who have lost their hard-earned life savings, homes, and, most distressingly, in some cases, lives as a result of poor and even corrupt financial advice. We have heard some of these stories during the debate on the FoFA reforms, during the Senate inquiry last week and during discussions in light of the Murray inquiry. The details of one person's suffering can never fail to move us or remind us why we are fighting for proper consumer protection and why we need to continue to fight for it.

In 2005, Bernard Kelly decided to seek financial advice to plan for a self-funded retirement. Peter Holt of Holt Norman Ashman Baker was recommended to him by others and, to reassure himself, Mr Kelly rang the ACCC and ASIC to check on his reputation. He was advised there was nothing on the file to suggest that Mr Holt was anything other than reputable. Mr Holt strongly advised Mr Kelly to invest in agribusiness and recommended a share portfolio that included investments in Timbercorp. He told Mr Kelly that the best way to structure his investment was to get a line of credit from his bank using his home as equity. Mr Kelly was given the option of paying his financial adviser an up-front fee or a commission based on the returns of the investment. Mr Kelly, my constituent, chose the latter option thinking it would provide a better incentive for his adviser to invest well on his behalf. However, even with this option, Peter Holt took regular management and share transaction fees. Mr Kelly now knows that Peter Holt also received commissions and other rewards, including overseas trips, in direct return for the number of investors he signed up to Timbercorp.

Peter Holt and his associates were the largest distributors of the Timbercorp product. Peter Holt geared his clients, including Bernard Kelly, in share portfolios and managed investment schemes such as Timbercorp and other agribusinesses. His clients in many cases—and Bernard Kelly was one—were not aware of the agribusiness loans, and the loan conditions were either misrepresented or not disclosed. These loans effectively resulted in some clients being geared twice over. Where gearing was disclosed, Peter Holt assured his clients that margin loans would never exceed 50 per cent. He in fact allowed the margin loans to exceed 200 per cent, resulting in his clients using their entire share portfolio and other assets.

As it turned out, the agribusiness investment did not pay returns. Crops failed and more and more investment was required to build it up. Loans were taken out by Timbercorp which became the liabilities of unwitting investors including Bernard Kelly. In the wake of the GFC, Timbercorp collapsed and was liquidated by KordaMentha. Creditors began calling Bernard Kelly at home demanding payment. When he referred them to his financial adviser Peter Holt, he was told that Mr Holt was too busy to take anyone's calls because he was filing for bankruptcy.

Not only did Peter Holt advise clients to invest in a scheme he personally was receiving benefits from, but it turns out he only had public liability insurance for $2 million, which was totally inadequate for the circumstances that ensued. When Timbercorp went into liquidation, Bernard Kelly found that he personally was liable for some $80,000 worth of loans. Bernard Kelly was not trying to get rich quick; he was doing what he thought was a sensible and responsible thing by investing his modest savings in order to fund an independent retirement and leave something for his children. He did what he believed were the prudent checks, he asked as many questions as he could— but in the end he was not given fair, impartial or transparent advice, and the consequences have been devastating for him and his family.

This is why the Labor government put the FoFA reforms into place. This is why we so vigorously oppose the current government's moves to destroy them—because without adequate consumer and investor protections, decent and hardworking Australians like Bernard Kelly will continue to be put at risk and the so-called burden on the welfare system that this government is wont to complain about will be much greater as people who could have been able to live in comfortable retirement are rendered financially ruined and even homeless, as is almost the case with Bernard Kelly.

It is not just the FoFA reforms that are so important for the protection of consumers. The ability of ASIC to monitor what is going on in the financial sector is also vital, as starkly demonstrated by the findings of the Senate inquiry last week. Their ability to fulfil their responsibilities, when this government has slashed their budget, will be something we need to watch with keen interest.