



Speech by

**Hon. D. HAMILL**

**MEMBER FOR IPSWICH**

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Hansard 10 November 1999

**MOTOR ACCIDENT INSURANCE AMENDMENT BILL (No. 2)**

**Hon. D. J. HAMILL** (Ipswich—ALP) (Treasurer) (11.56 a.m.): I move—

"That the Bill be now read a second time."

The Queensland compulsory third-party motor vehicle insurance scheme ensures that people injured on our roads as a result of negligence are guaranteed compensation and that the legal liability of owners and drivers is fully protected. However, the ownership of motor vehicles extends widely throughout the community and the cost of CTP needs to be appropriate but restrained so it does not become a burden to those on lower and fixed incomes. Affordability is also a key in maintaining a high proportion of insured and registered vehicles, without which the scheme itself would not be viable.

With the premium rise implemented on 1 July 1999, the scheme is judged to be approaching the limits of affordability. In April, the Government appointed a committee of review to examine scheme design, affordability issues and the appropriate role for Government in the future management of the scheme. One of the key pressures identified is the significant increase in the frequency of claims brought about by the soliciting or inducing of injured persons to make claims. The committee was directed to consider a legislative amendment to the Motor Accident Insurance Act 1994 aimed at prohibiting these practices.

The call for a prohibition on soliciting has stemmed from an identified practice where tow truck drivers, panel beaters and other intermediaries have been soliciting parties to motor vehicle accidents to lodge claims through particular solicitors. The practice has generally involved the payment of a spotter's fee to a tow truck driver or other intermediary for the referral of a client. These soliciting practices have resulted in a measurable increase in claim lodgments which in turn affects the affordability of the CTP scheme.

In general, the practice gathers the very minor and less meritorious type of claims but they still have a significant impact on premiums paid by motor vehicle owners. The committee of review has undertaken analysis of the scheme's data and reports that if the practice is stopped it is likely that a 3% saving on premiums could be made. It is also important that potential escalation of the practice is stopped.

In addition, one of the major concerns this Government has with the current practice of soliciting personal injury claims is that there is little, if any, regard for the rights of the individual, particularly the right to privacy of personal information. These tow truck operators, panel beaters, and other intermediaries are providing, without permission, the names, addresses, telephone numbers and registration details to other people such as lawyers or their intermediaries. There are instances in which potential claimants are then subject to a level of harassment to bring a personal injury claim which they may not have otherwise contemplated.

Before recommending to Government that a prohibition on soliciting be introduced, the committee of review fully considered submissions from the scheme's stakeholders. This included input from the Queensland Law Society, the Australian Plaintiff Lawyers Association and the Insurance Council of Australia. The support to curtail the practice was overwhelming. There is a sound argument that it is essential that those injured in motor vehicle accidents be fully apprised of their rights. The Bill arguably may limit a person's acquisition of knowledge as to rights of recourse at law. However, lawyer

advertising for personal injury claims appears across a broad range of the media and the Bill provides a specific exclusion so that this advertising is not affected. This Government believes there are more appropriate ways for persons to be apprised of their rights than through persons without legal expertise operating in the stressful situation of an accident scene, and where these intermediaries may be dealing in private information and receiving a commission or fee for their role.

I note from the committee's draft report, which I tabled in this House on 26 October 1999, that the committee has recommended the establishment of an independent call centre and advisory service to assist the public with CTP inquiries. This centre, to be managed by the Motor Accident Insurance Commission, will enable potential claimants to receive the information they might require on all aspects of the scheme, including the claims and rehabilitation processes. This approach will be far more appropriate in advising injured persons of their rights and will deliver the service without compromising the privacy of individuals.

The Bill takes a three tier approach to prohibiting the soliciting of personal injury claims through particular solicitors. Firstly, the Bill makes it an offence at the accident scene for a tow truck driver or another person attending the scene of an accident in his/her employment to solicit or induce a person who has suffered or may have suffered an injury to make a claim. The Bill also prohibits any person from soliciting at the scene of an accident if the act of soliciting was unreasonable in the circumstances. The intention is to prevent anyone soliciting at a motor vehicle accident scene, very often an experience associated with trauma. However, the Bill is structured in a manner so as not to unintentionally capture persons genuinely assisting with advice.

Secondly, the Bill provides for offences in relation to nomination of a particular lawyer or a firm of lawyers and to the general disclosure of names, addresses and registration numbers of potential claimants to persons not authorised to receive such information. This provision is integral to alleviating any restructuring of practices designed at avoiding the prohibitions. This will, for example, prohibit a panel beater who obtains information in the course of business from using the information to solicit a person to make a claim.

Thirdly, the Bill makes it an offence at any time to pay, or seek payment of, a fee for soliciting or inducing a potential claimant to make a claim. The Bill also aims at strongly discouraging any professional person from involvement in these soliciting practices. In this respect, a conviction for soliciting under these amendments may be dealt with as misconduct under the relevant Act under which the professional person is registered.

In summary, this is a broad approach, but one which has safeguards against the capture of innocent parties. It is expected to be effective not only in stemming the current practices but also in addressing those areas whereby, through some restructuring of the activity, lawyers could circumvent the prohibitions. The approach ensures that legitimate practices are neither restricted nor prohibited and that appropriate mechanisms for injured parties to be apprised of their rights are not compromised, even at the accident scene.

Under the proposal, any person may advise the potential claimant of their legal right to compensation and advise the potential claimant that they should see a solicitor. However, the person advising may not direct the potential claimant to a particular lawyer or a firm of lawyers. Additionally, persons who have had a prior relationship with the potential claimant, such as a parent or guardian, may offer advice and nominate a particular lawyer or legal firm as long as they do not receive a fee for the nomination. The Bill will not impinge on a solicitor's right to advertise, provide service to existing clientele or use appropriate methods of obtaining instructions.

The Government has taken a very important step here in the overall interest of the CTP scheme and in maintaining the rights of individuals to privacy and protection from harassment. The Bill should provide the required braking effect on the number of claims from this source and help to stem the upward pressure on CTP premiums we have experienced in recent years.

I commend the Bill to the House.

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