



Speech by

Hon. D. HAMILL

MEMBER FOR IPSWICH

Hansard 7 December 1999

MOTOR ACCIDENT INSURANCE AMENDMENT BILL (No. 2)

Hon. D. J. HAMILL (Ipswich—ALP) (Treasurer) (3.02 p.m.), in reply: Again, I wish to thank all honourable members for the way in which they have approached the Motor Accident Insurance Amendment Bill. I think everyone has indicated from their remarks that they accept the rationale behind this Bill and regard it as a very desirable piece of legislation. There have been a number of issues that have been raised in passing. I will not seek to deal with them in the order in which they were presented but will try to rely upon my recollection of them. I will start at the end in relation to the remarks of the member for Gladstone with respect to issues such as party and party costs and putting a cap on the legal fees.

Whoever it was who sought the ear of the member in relation to these matters was not seeking it in relation to this legislation. What they were seeking was an audience in relation to the findings of the committee report on the review of the compulsory third-party insurance scheme. Whilst this Bill arises from a part of the work of that review which I established in April this year, I wish to foreshadow that there will be a much more significant piece of legislation that will come before the Parliament next year to deal with matters such as those raised by the member for Gladstone, and other issues as well. The significance of this legislation will be as follows. The review panel sought to ensure that compulsory third-party insurance was affordable. We need to have an affordable system of compulsory third-party insurance. If that falls apart and if people find that they cannot afford to have compulsory third-party cover, it means there will be a lot of unregistered vehicles on the road and it will be—

Mr Schwarten: The battlers.

Mr HAMILL: It will be the battlers who will be most exposed because they will be the ones who will be exposed totally in law in the event of an accident causing injuries to another party. The compulsory third-party insurance scheme is vital. We as the Government see the retention of a compulsory third-party system as very much in the public interest. That is the first point.

The second point is that, in saying that, we need to safeguard the affordability of the scheme. We have seen a massive growth in relatively small claims. I think the member for Gladstone used the term "frivolous". There have been lots and lots of small claims. In fact, I have been advised of these figures. In June 1995 some 120 claims were being made for every 100 hospital admissions due to motor vehicle accidents. In the space of but three years the number of claims has grown to 180 claims for every 100 hospital admissions. We have had a significant swelling of the number of claims being made under the Act. I do not deny the right of anyone to pursue a claim where they have sustained injuries and where they have a right of claim. This legislation does not in any way inhibit the lodging of claims.

The changes that I wish to foreshadow in the other legislation to come before the Parliament next year will seek to put measures in place to encourage the early settlement of claims so that the settlement will fundamentally contain the compensation element rather than court fees, lawyers' fees and all the rest of the add-ons which are costing the community dearly with respect to compulsory third-party insurance. The single figure that came out of the review of compulsory third-party insurance which concerned me as Minister was that, over the last five years, around 62% to 63% of all the moneys collected by way of premiums for third-party insurance were actually paid out to injured parties. Some

38% of the moneys collected found its way either into the pockets of the legal representatives or the processors, the insurers.

Frankly, that is unacceptable to me and it is unacceptable to the Government. We make no apology for putting measures in place to ensure that the maximum amount of dollars flows from premium payments to injured parties. Obviously there is going to be a role for the insurers and the lawyers. What I and the Government say is that there is an appropriate role. The scheme is about providing compensation to injured parties, not underwriting a holiday house or a handsome retirement scheme or a dividend to a shareholder. That is the important point.

The matters that the member for Gladstone raised are important matters that will be canvassed in greater detail when the other legislation is before the House. There are obviously some trade-off issues here. In accepting the review committee's report, we have endeavoured to maintain—and our intention is to do this—common law access for injured parties. That comes at a price. There are certain trade-offs involved, on the advice of the Law Society, the Plaintiff Lawyers Association and so on and so forth.

There will be proposals to limit access to party and party costs. There will also be proposals to cap the amount of economic loss that can be claimed by an injured party under the scheme to, if my memory serves me correctly, \$2,000 per week after tax. Those people who are on a very high income indeed might have to tighten their belt a bit so that they have an after tax income of only \$100,000 per annum if they are to gain the benefits under the scheme. To me, that is a reasonable trade-off in the interests of ensuring maximum access for those people who are hurting the most as a result of road trauma.

In respect of the other issue which has been raised by the member for Moggill, I understand where the honourable member is coming from in relation to his amendment. I do not believe that the concern he has will be addressed by the words that he proposes in the amendment. I do not intend to go into detail now. I will happily discuss it when we consider the individual clauses. I say to the honourable member and to the honourable member for Gladstone, who raised a similar point: there is nothing in the Bill which would preclude a member of Parliament doing his or her duty in respect of the interest of a constituent. The Bill will and certainly does allow a constituent to go to see a member of Parliament and, as the member for Gladstone said, the member of Parliament is quite within his or her rights to say, "If you have an accident claim—you have had an injury—you should go and see your solicitor." The member of Parliament is not touting business for a particular solicitor; obviously that is a matter for the individual.

If a person says, as people do from time to time, "I do not have a legal practitioner with whom I have any particular dealings", I point to the Law Society list of practitioners. That way, I am not recommending a particular firm or panel of firms. I am saying, "These are the people who are qualified to help you." That is quite a legitimate process for any member of Parliament to go through. It does not in any way undermine the integrity of this anti-touting measure.

As the member for Hervey Bay correctly pointed out as an aside during the debate—I appreciate his comment to me in relation to this—these measures are consistent with what is being done in relation to the Tow Truck Act, which has also been designed to crack down on the secret commissions and so on which were passing between certain operators and others; in other words, trading out of other people's misery. As I said to the honourable member, I appreciated that comment because it is true.

This legislation is consistent. It dovetails with what has been sought in the Tow Truck Act. It is good legislation. It is legislation that has been the subject of extensive consultation, and not only into the recommendations of the Government's appointed committee looking at the compulsory third-party scheme on a particular term of reference. These provisions have also been put past the Queensland Law Society, the Australian Plaintiff Lawyers Association and the Insurance Council of Australia, all of whom have endorsed these amendments. They are good amendments. They are designed to meet a public good. I commend them to the House.
