



Speech by

Dr DAVID WATSON

MEMBER FOR MOGGILL

Hansard 7 December 1999

MOTOR ACCIDENT INSURANCE AMENDMENT BILL (No. 2)

Dr WATSON (Moggill—LP) (Leader of the Liberal Party) (2.42 p.m.): It gives me pleasure to contribute to the debate on the Motor Accident Insurance Amendment Bill (No. 2) 1999. The Opposition will be supporting this Bill, which is designed to restrict the ability of certain individuals to tout at the scene of traffic accidents. The Bill has three tiers, and I have no problems with a couple of them. However, I wish to explore one issue in particular in respect of which we will be moving an amendment at the Committee stage—something I have taken the opportunity to discuss with the Treasurer over the past week.

As I said, there are three tiers to this Bill. Firstly, the Bill introduces an offence for a prohibited person—for example, tow truck operators or other people attending the scene of an accident for the purpose of their employment—to solicit or induce a person to make a claim. Secondly, the Bill introduces an offence for nominating a particular lawyer or firm of lawyers and also for disclosing information in the course of employment, if used for the purpose of soliciting. Thirdly, the Bill attempts to make it an offence to pay or to seek payment for soliciting a person to make a CTP insurance claim.

We have no problem with the idea of trying to stem the growth in the claim frequency associated with traffic accidents. We have no problem with this legislation applying to people such as tow truck operators, panel beaters and others whose employment is linked directly with traffic accidents. Madam Deputy Speaker, you will have to forgive my referring specifically to the clauses now so as to save time during the Committee stage.

Madam DEPUTY SPEAKER (Ms Nelson-Carr): That is fine.

Dr WATSON: In particular, I refer to clause 3 of the Bill, which inserts proposed new sections 97A(2)(a) and (b). I have no problem with those provisions being in the Bill, because in my opinion they go directly to the issue of touting at the scene of an accident. However, I have difficulty with proposed new section 97A(2)(c), because it expands the coverage of the Bill to people other than tow truck operators; in fact, anyone who comes into contact with a potential claimant is covered. The provision contains the broad definition of "a person who has contact with a potential claimant if the contact substantially arises because of an incident and for the purpose of the person's employment". I wish to bring to the attention of the House a couple of obvious cases in which that provision could become a problem. For example, from time to time, members of Parliament are approached by constituents who wish to raise an incident affecting them.

Mr Schwarten: They don't come knocking on your door saying, "Gee, you're a good bloke."

Dr WATSON: I am glad the Minister interjected; that is precisely the point I was going to make. They do not generally approach us just to pass the time of day. Normally, they wish to raise an issue concerning the Government. Irrespective of which political party is in Government, people approach us to speak about those sorts of issues. For example, someone might complain to the Treasurer about the impost of payroll tax on their business or the impost of land tax on their personal affairs. A public housing tenant might approach the Minister who interjected a moment ago concerning a problem. The point is that they approach us because an incident has happened. Generally, people do not just drop in. They approach us by virtue of our employment. There might be some constitutional issues about whether, technically, members of Parliament are employed as such. However, people approach us by virtue of our role in the community as a member of Parliament. It could be interpreted that the definition

in that clause could apply to members of Parliament who respond to constituents approaching them in relation to their involvement in a traffic accident. Because they do not know where to go, they approach their member of Parliament. Clearly, we are caught by that clause.

Other professionals could also be caught by that provision. Generally, people see their medical practitioner because they are ill or injured. They do not normally go to a medical practitioner simply to pass the time of day. It is expensive to see a medical practitioner and usually people do not fork out money for the sake of doing so. They usually see a medical practitioner because they are injured or have a medical complaint. If, a day or two following a traffic accident, people go to medical practitioners with, for example, a complaint about a back injury arising from the traffic accident, again, the medical practitioners, by virtue of their employment, could be caught under this piece of legislation, because "employment" is defined very broadly in the Bill.

I will give a third example. In practice, most accountants deal with businessmen. Many of them are sole operators or run a family business and they are involved with their clients on a day-to-day basis in a whole range of financial, accounting and business activities. Again, it is quite possible for a small business operator to be involved in an accident. A few days later they could be attending with their accountant evaluating the impact on their business. Again, the situation arises that they have been with the accountant because of an incident and it relates to the person's employment.

I have discussed this issue with the Treasurer and he has had advice, and I am sure he will speak for himself in a moment. The advice that he seems to have received is that we cannot expect this particular clause to apply because the contact is incidental to their normal contact with a member of Parliament, medical practitioner or accountant, but the Bill does not say that. I think I have had enough experience with legislation to know that, if those kinds of things are not specifically inserted in legislation, it is open to a court's interpretation, and this particular clause is drawn very broadly.

At the Committee stage I am going to move an amendment which, although it leaves that broad clause as it is in the main, will add to proposed section 97A(3)(b) the words "for a fee". The reason for doing that is that, in the examples I gave previously, if a constituent goes to a member of Parliament and talks to him or her about a traffic incident, the member would not receive a fee just for talking to the constituent. I think there are some other Acts that preclude that kind of possibility. By adding those words, members of Parliament would be eliminated from the capture of that particular clause because they do not receive a fee. It would enable a member of Parliament to give the name of a lawyer to a constituent who needed legal advice.

The same kind of thing would be true of an accountant or medical practitioner, as I was saying earlier. In the normal course of their operations, a client going to see a medical practitioner or an accountant would not be caught in that subclause because, under normal circumstances, the medical practitioner or accountant does not receive a fee for that. They would receive a fee for medical or accounting advice, but not for the purpose of giving the name of a lawyer.

We agree with the objectives of the Bill. There is no question that touting is a social problem. People have accidents and are under pressure at the time of the accident. There is no question about that. People who attend an accident in the normal course of their employment do have information which they would not gain for any reason other than that they happen to be a policeman, ambulance driver or tow truck operator. There is no question about that. We support eliminating that kind of use of information. That is why we will be supporting the Bill in general.

The particular clauses in this Bill are drawn so broadly that I believe it is incumbent on this House not to accept the legislation as it is currently written. I have suggested to the Treasurer that there may be alternative ways of handling the problem, such as drawing a clause to allow the Treasurer under regulation to specify classes of people, such as tow truck drivers, who may be prohibited from passing on the information about which the Treasurer is concerned. I believe that the way the Bill is drawn at the moment is too broad. It would be inappropriate for this House to accept the Bill in that form. I will leave the more detailed debate until the Committee stage.
