



Speech by

Mr P. PURCELL

MEMBER FOR BULIMBA

Hansard 18 October 2001

LAW REFORM (CONTRIBUTORY NEGLIGENCE) AMENDMENT BILL

Mr PURCELL (Bulimba—ALP) (12.02 p.m.): It gives me pleasure to speak to this law reform bill. A lot of what I was going say has been canvassed. However, it is important that we ensure that people who are injured are looked after by the courts. The High Court decision has put that out of whack a little. And to be fair and equitable, I say that what the minister is bringing in here will restore some balance. The bill will operate retrospectively, and it needs to do that.

Mr Quinn: There is a reasonable balance.

Mr PURCELL: There is a reasonable balance there. It is essential to correct the unintended consequences brought about by the High Court's decision. The High Court recommended that legislation could probably right the matters uncovered by its decision. Retrospective laws are generally passed to validate past actions. This is really to correct a defect, I suppose, in the legislation. This bill corrects a defect in the Law Reform Act 1995 which, prior to the Astley decision, was regarded as applying to apportionment provisions to liability to contract as well as in tort. This bill restores the law to the position that was commonly accepted as applying in Queensland before the Astley decision.

The amendments are drafted so that the rights of parties to proceedings that have been commenced or decided, or where a settlement has been negotiated, are unaffected. The amendments are also expressed not to apply to claims under the WorkCover Queensland Act 1996. Concern was expressed during consultation on the bill about the consequences for WorkCover claimants if the provisions of the bill applied to claims under that act. Few such claims have been commenced in the courts because of the extensive pre-proceedings process set out in the WorkCover Queensland Act 1996. The amendments will apply to any other act or omission that occurred before the amendments commenced.

Clause 2 provides that the amendments in the bill are taken to have commenced on 7 August 2001. This amendment will ensure that the High Court's decision is quarantined as much as possible without adversely affecting the position of litigants—people engaged in a law suit—who have acted on the basis of the law as determined. I recommend the bill to the House.
