



Speech by

ANDREW McNAMARA

MEMBER FOR HERVEY BAY

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PERSONAL INJURIES PROCEEDINGS BILL

Mr McNAMARA (Hervey Bay—ALP) (4.27 p.m.): I rise to support the Personal Injuries Proceedings Bill 2002, a bill which addresses the single biggest issue of public concern in my electorate of Hervey Bay today. In this place we debate many pieces of legislation which are important in themselves but which frequently are unknown to the broader community as they either affect only a small number of people or operate at a global level the people feel removed from. That is certainly not the case with this legislation. I think it is fair to say that my electorate, like those of most members, is alive with interest in this issue. Right across Hervey Bay, community groups, businesses and individuals are looking for the decisive legislative response to the public liability insurance crisis which this legislation provides.

Along with the government's group insurance scheme, this bill represents a comprehensive and coordinated response at state level to the crisis brought on by the collapse of HIH and UMP and the rise in the quantum of insurance litigation judgments, particularly in New South Wales. It will now be up to the Howard government, which has sole responsibility for regulation of insurance contracts, as well as the Australian Consumer and Competition Commission, to ensure that the premiums which are offered are fair and competitive. The state government has no constitutional power to legislate to set premiums, but through the operation of this new legislation the government will influence the operation of our legal system and the costs and payouts which feed the level of premiums.

This bill will reduce legal costs and make claims quicker. It extends to personal injuries litigation those notice periods and requirements for compulsory settlement conferences which currently operate very well in the areas of motor vehicle and workplace injuries claims. Most importantly, it sets a cap on the economic loss component of any damages awarded at three times the average weekly earnings. What that means is that loss of future earnings awards will, on current figures, be limited to no more than an estimate of about \$120,000 per year. I note, however, that there is no cap on general damages. This bill leaves courts free to determine the pain and suffering component of any individual claim, and that is how it should be. These awards will, however, be made more consistent by removing the sometimes emotional and inconsistent though understandable reactions which juries can have when confronted with the undeniable physical or psychiatric tragedies which many plaintiffs have suffered. Judges will ensure greater consistency between awards by paying strict attention to precedent, and that is a sensible reform.

This bill very importantly will protect our volunteers and groups such as lifesavers when they are acting in good faith and without reckless disregard. They can help our community with confidence that they will not be sued while doing community service when someone is injured. This bill does not take away the rights of injured people to pursue damages from those who have been negligent, but it does recognise that our current system is unsustainable and that our whole community fabric is put at risk if we do not limit the costs of litigation and balance individual needs against the community's capacity to pay. I congratulate the Attorney on this sensible and measured response on this vital issue and commend the bill to the House.