



Speech by

BONNY BARRY

MEMBER FOR ASPLEY

Hansard 19 June 2002

PERSONAL INJURIES PROCEEDINGS BILL

Ms BARRY (Aspley—ALP) (3.25 p.m.): I rise to support the Personal Injuries Proceedings Bill 2002. I acknowledge in the public gallery my family and my Aunt Norma Baker from Chinchilla. It is certainly the influence of my late Uncle Harry Baker and his passion for politics and trade unionism that sees me here today. I know that they are delighted to hear me speak today.

This is a bill put forward by a government committed to taking action with a productive and positive but balanced approach in the uncertain times of insurance company collapses and an emergence of a litigious culture in our community. The bill before the House today is one that will take steps at a state level to ensure that we have a society that protects the right of injured persons to take action and to seek restitution for harm done to them. At the same time it creates an environment where efficiency and balance is restored to the litigation process. The outcome for all Queenslanders will be one of certainty for those involved in personal injuries litigation and the streamlining of the claims processes.

This bill does this by reducing the costs of legal proceedings by activating a number of important pre-court procedures, such as new claims systems requiring notice of claims within nine months of the incident or symptom appearance, faster notice time for those persons utilising lawyers—that is, requiring notice to be given within one month of consulting a lawyer—full disclosure procedures, and mandatory conferences prior to trial at the trial ready stage of preparation. It enacts cost reduction for legal procedures by limiting legal cost recovery outcomes, ensuring that it is not in anyone's interests to delay legal proceedings, and encourages efficiency while allowing for persons to have sufficient time to prepare their proceedings in recognition of their unique circumstances.

The bill reduces frivolous claims for minor injuries by capping claims for economic loss at three times the average weekly earnings. It abolishes exemplary, punitive and aggravated damages. It allows, most importantly, for expressions of regret and has minimum thresholds for claims for gratuitous care for loss and comfort. It provides for reducing the vulnerability of defendants' overall payout outcomes by excluding juries from hearing personal injury claims, therefore reducing the emotional impact caused by jury determined payout figures. It does not, however, change the laws concerning negligence nor the framework that influences compensation payments. It facilitates periodic payment of entitlements through structured settlements rather than lump sums and it bans the no win, no fee advertising by lawyers on television and radio. The bill protects beach lifesavers and similar volunteers through acknowledging protection for acts of first aid or emergencies that are performed in good faith.

As the member for Aspley, over the past few weeks I have had considerable lobbying by constituent doctors and their patients. They have expressed to me their concerns about the impact of collapses of companies like UMP, the withdrawal of companies like St Pauls and the emerging culture of sue for anything has not only on the economic viability of medical services but more importantly on the conduct and practice of medicine in general. The impact that they suggest will occur is that there may be closures of new patient lists by general practitioners and that they will stick to the practice of only looking after known patients. This would have a crushing impact on an area such as mine, where over 350 families are expected to move into new estates in the future. Doctors feel that they would be increasing the number of tests that they undertake and audit just in case. They feel that it would lead to an increase in referral to hospitals for admission, just to be on the safe side. It means that they believe

that the problem of defensive medicine would emerge instead of what is the ideal, that is, preventative medicine.

Finally, for an area like metropolitan Aspley, premature retirement would lead to closure of clinics and recruitment difficulties in high-risk areas. One general practitioner described it to me as the first response is often the final response and that a doctor's early retirement from a practice because of uncertain legal risks is a threat to local communities accessing GP and specialist services. However, during my discussions with doctors in my area it was very interesting to note that they agree that the pursuit of legal action by patients is often just because they want an explanation, an apology or just to have their say when they feel that their care did not meet their expectations. I can only agree with them wholeheartedly.

As a member who comes to this House with 25 years of nursing experience, I can say that it is the opportunity to have one's say that most patients desire the most. What remains understated in this debate is that Queensland deals with a considerable number of complaints against doctors by patients through the Health Rights Commission. The Health Rights Commission process in Queensland allows complaints against health care providers to be made without fear. It is the success of the Health Rights Commission in negotiating outcomes desired by patients in the matter of dissatisfaction with health care that I believe contributes to fewer Queenslanders seeking some form of legal justice through the courts. The Health Rights Commission in Queensland is a unique and successful strategy. I congratulate the Minister for Health and the Health Rights Commission on its success.

This bill goes a long way to addressing the issues raised by doctors and constituents in my electorate. I thank them for their input and for their preparedness to discuss their concerns with me. They of course still have issues that only a nationwide review of the law of negligence will address, and they can be assured that the Queensland government will play a major role in any nationwide review. I congratulate the Attorney-General, the Premier and the Minister for Health and their staff on the work that they have done to bring this bill swiftly into the House. I commend the bill to the House.