



Speech by

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**MEMBER FOR MOGGILL**

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#### **CIVIL LIABILITY BILL**

**Dr WATSON** (Moggill—Lib) (12.22 p.m.): I rise to speak briefly to the Civil Liability Bill. Generally, like every other member in the House, I and the Liberal Party will be supporting the bill. However, I wish to raise a couple of issues with the Attorney-General, which I hope he will respond to in his reply. These issues have been raised with me by constituents and, in a particular case, by some consulting engineers who I know fairly well and who have come to see me about particular issues. I notice that the member for Kurwongbah has partly addressed these issues in her speech, but I think that they are worth pursuing a little deeper. The argument that they have put forward goes to the nub of whether or not the legislation is going to work, particularly with respect to the threshold and clause 28 of the bill. So I have some questions on that, really on behalf of those constituents.

I have had a fair bit to do with consulting engineers. As a Minister for Public Works and Housing—and I know that the Minister for Public Works is in the chamber—one of the minister's responsibilities is to regulate the engineering profession. During my time as minister, I had a fair bit to do with engineers. Over that time I—as has, I am sure, the current minister—gained a fair bit of respect for the way in which they run the profession. They are a very dedicated group and very professional in the application of their work. So when those engineers raise issues, I think that it is worth taking those issues very seriously.

On 12 March the Association of Consulting Engineers of Australia wrote to the Premier and sent a copy of that letter to the Attorney-General. That letter raised two points relating to clause 28 of the bill. Firstly, they stated that the \$500,000 threshold will encourage claims, not reduce them. The association argued that proportionate liability should apply from the first dollar. Secondly, the association states that the threshold will not fix the issue for small consumers. I will deal with those issues seriatim.

First of all, ACEA pointed out that, in their experience, more than 90 per cent of the claims against engineers fall below the threshold, therefore making the introduction of proportionate liability in Queensland almost non-existent. The smaller claims will be treated joint and severally with the same problem that the defendant and the insurer will be required to bear all the liability and risk regardless of fault. The insurers have told ACEA that in the building and construction industry the multitude of smaller claims are of equal concern in their decision to withdraw from the market as is the magnitude of large claims. So insurers are not going to return to the market unless the issue of the total number of claims, including those that fall below the threshold, is addressed.

The association is also concerned that the threshold will encourage spurious and artificial claims to continue and that they are a major contributor to the risk environment. It is a problem for the engineers in terms of encouraging insurers to remain in the environment. The association is also concerned that that encourages the practice whereby some plaintiffs ensure that claims that lie just above the threshold are reduced to fit below the threshold so that they fall into the joint and several category. That would not be the case necessarily if the threshold did not exist.

Of course, this situation is exacerbated for professionals, because if those people go to court to defend an action, they face very significant legal liability in terms of their legal costs even before they get to court. I am sure that the Attorney-General has been made familiar with that issue from a broad range of constituents.

The first argument that the consulting engineers make is that the \$500,000 threshold simply will not reduce the number of claims. In fact, it may encourage greater claims below that amount. In terms

of the issue of joint and several liability—if there are lots of claims, they are either going to be settled out of court, simply to reduce the costs to lawyers, or insurers will simply not be in business in any case. So the Attorney-General has not really solved the problem.

The second argument that the engineers put forward is that the lower threshold proposal will not fix the problem for small consumers and that, in fact, it will exacerbate the problem. The consulting engineers are concerned that the assumption is that, under the joint and several regime applying below the cap, insurers will continue to provide professional indemnity cover for professionals such as consulting engineers, which in turn will compensate claimants. But the problem that they have is that insurers are leaving the market, which means that the number of insurers in the market is reducing. Therefore, those that remain can almost pick and choose which profession or professional person they cover. That opens up the problem that some professionals may simply go without personal injury coverage or those people who lie on the periphery of any profession may do things that ensure that they duck any professional responsibility and, therefore, liability.

I think the consulting engineers are concerned that inequities will arise from the proportionate liability regime that this bill introduces. As the member for Kurwongbah argued quite well, perhaps also we need to look quite seriously at the introduction of professional services legislation along the lines of that in New South Wales. The engineers would say, of course, that we need a proportionate liability regime which starts from the first dollar—not at the \$500,000 threshold—together with a professional services legislation regime similar to that introduced in New South Wales to provide a surer and better outcome. I recognise what the member for Kurwongbah said in that there are matters of judgment to be made on this issue and that if there is to be a threshold, what should the threshold be. But these are concerns that have been raised and they deserve to be addressed. I am sure that in deciding on the \$500,000 the Attorney-General has thought about that issue and will be able to elaborate in his response.

One other issue which really mirrors the issue that the member for Toowoomba South raised earlier is the position of community organisations which still face problems in obtaining insurance coverage even after we in this place have passed certain legislation. In my own case there is the Brookfield show, an event that has been running for decades. Throughout that period it had one claim against it—some time ago—for \$100. Despite the legislation that has passed this place previously and the government's setting up a scheme, this year the Brookfield show faces a massive increase in the cost of insurance. In fact, the show could not get a satisfactory response by going through the government scheme. That is of concern, because the Brookfield show is probably still the second largest horse show in Queensland after the Exhibition. It has had a great history. My area has the first established and oldest pony clubs in Queensland. It is an area renowned for this kind of horsemanship; in fact, I have to be careful here about naming—

**Mr Horan:** Not as good as the downs.

**Dr WATSON:** Nearly as good as the downs. A fair number of my constituents would argue that it is probably better. Some great equestrian judges come from my area. I should not name Mary Seefried too much, but there are people in these parliamentary precincts who are well-known equestrians and who live out there. They all will admit that the Brookfield show is one of the premiere horse shows in Queensland. For them not to be able to get coverage at a reasonable price is crazy. We have to address these issues and in a serious way, otherwise we will end up losing a critical part of our state's history. I am sure that the Mount Gravatt Show must be facing the same kinds of problems. I am sure the member for Mansfield would support me in the case that we have to make sure that these shows—I think they are the only two left in Brisbane now—are allowed to continue, because they are such an important part of the environment in which we all wish to live.

The issue of the section 28 threshold is an important issue I would like the Attorney-General to address in his summing up, together with the issue of trying to get a reasonable regime to allow appropriate coverage at appropriate cost for community organisations such, as in my case, the Brookfield Show Society. These are important issues for everybody in this House.