



Speech by

Hon. Kerry Shine

MEMBER FOR TOOWOOMBA NORTH

Hansard Wednesday, 22 August 2007

CIVIL LIABILITY (GOOD SAMARITAN) AMENDMENT BILL

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (9.47 pm): At the outset, I can confirm that the government will not be supporting the Civil Liability (Good Samaritan) Amendment Bill 2007. When introducing the bill in March this year, the opposition leader conceded that ‘there has been no successful litigation against good samaritans in Queensland to date’. Indeed, the 2002 Ipp report, otherwise known as the *Review of the Law of Negligence, Final Report*, stated that it was—

... not aware, from its researches or from submissions received by it, of any Australian case in which a good Samaritan (a person who gives assistance in an emergency) has been sued by a person claiming that the actions of the good Samaritan were negligent. Nor are we aware of any insurance-related difficulties in this area.

The bill fails to acknowledge that there are already broad statutory protections from liability in Queensland under the Civil Liability Act 2003 for volunteers and rescue workers providing assistance to people in distress in emergency situations. The Law Reform Act 1995 provides protection from liability for medical practitioners who provide medical assistance in emergency situations. The liability of a good Samaritan will continue to be assessed in accordance with the common law of negligence, as modified by chapter 2 of the Civil Liability Act.

The common law enables the particular circumstances of each incident to be taken into account and adequately balances the interests of both good Samaritans and injured people. At common law, a person who comes to the assistance of another in an emergency situation may owe the person a duty of care. Under the common law, good Samaritans are required to exercise the care and skill expected of a person in their same situation and with the same skill levels. If you think about this, the common law makes common sense. For instance, you would expect a doctor to apply a greater level of expertise to assist a person in medical difficulty than someone who does not have any medical or first aid training.

The protection offered at common law is higher than that under the proposed bill, which would only require a good Samaritan to act in good faith and without reckless disregard for the safety of the injured person or someone else. The government supports the status quo that provides higher protection than the bill would afford if enacted.

The opposition leader cited comments the Premier made about the case of Aunty Delmae Barton last year. Aunty Delmae lay sick at a bus stop at the Griffith University. Many people walked past and drove past Aunty Delmae without offering assistance. This was a very unfortunate incident. Fortunately, some people did stop to help Aunty Delmae. There was no suggestion that people did not help because they feared being sued for offering assistance.

There is concern about the apathy of some people in our society. We should encourage people to be community minded. However, at the end of the day, we cannot legislate against apathy. This bill certainly does not legislate against apathy. Each one of us needs to think about how we would react in situations where our help may be needed.

I would like to pay tribute to the many Queenslanders who have confronted situations where their assistance was needed and they have not hesitated to help. I would like to pay tribute to the many

Queenslanders who already volunteer their time and expertise to a range of community services and charitable organisations. The justices of the peace, who are supported by my department, offer assistance to members of the community every day, witnessing documents such as affidavits and statutory declarations.

The JPs in the Community program has been a resounding success around Queensland. Under this program, volunteer JPs operate in shopping centres, libraries, court registries and some law buildings, handling between 1,500 and 2,000 matters each day across Queensland.

Another very important group of people who are assisted by my department are community justice group members. These groups, made up of local residents and leaders in Indigenous communities, provide invaluable service to the maintenance of law and order in those communities. Community justice groups play an important role in the implementation of a range of initiatives targeting the overrepresentation of Indigenous people in the criminal justice system.

Community justice groups were established in 1993 in response to the Royal Commission into Aboriginal Deaths in Custody. The government recently announced an additional \$4 million over four years. I thank the members of the community justice groups for their work. They are indeed good Samaritans.

Another prominent example of encouraging community involvement is Crime Stoppers, which has been described by the Queensland Police Service as 'Queensland's most effective tool in the fight to solve crime'. Last year my cabinet colleague the Minister for Police and Corrective Services announced Crime Stoppers figures that were very impressive and they are worth recalling. A total of 32,856 phone calls were made to Crime Stoppers, and as a result 1,292 people were arrested on a total of 2,853 charges; 64 charges were laid in relation to personal safety; 295 charges were laid in relation to property security; 2,301 charges were laid in relation to drug offences; and almost \$6.5 million worth of drugs were seized by police.

I take this opportunity to urge honourable members to support Crime Stoppers and alert their constituents to the Crime Stoppers number of 1800333000. This parliament has legislated in areas where people should be responsive, and their failure to respond would be criminal. I specifically refer to the amendments to the Criminal Code unanimously supported by the parliament this year to dramatically increase the penalties for hit-and-run offenders. Under the amendments, which are now in force, the maximum penalty for dangerous driving causing death or serious injury if the offender leaves the scene before police arrive is 14 years jail.

In considering the bill, I am reminded of Lord Atkin's statement in *Donoghue v. Stevenson* when he observed: 'You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.' That is the standard our common law requires—reasonable care.