




Speech By
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MEMBER FOR COOMERA

Record of Proceedings, 17 October 2013

**WORKERS' COMPENSATION AND REHABILITATION AND OTHER
LEGISLATION AMENDMENT BILL**

 **Mr CRANDON** (Coomera—LNP) (7.50 pm): I rise to make a contribution to the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013. Among other things, an objective of the bill is to implement the Queensland government's response to the Queensland parliament's Finance and Administration Committee's report on its inquiry into the operation of the Queensland workers compensation scheme. I was very proud to be the chair of that committee during that period of time. There is no doubt in my mind, having been through what we went through over a 10½ month period, that the workers compensation scheme in Queensland is the best workers compensation scheme in Australia. The changes that are being made to the scheme are intended to ensure that it continues to be far and away the best workers compensation scheme in Australia.

On 7 June 2012 the Legislative Assembly referred responsibility for the inaugural review to the parliament's Finance and Administration Committee. The committee tabled its report and recommendations 10½ months later on 23 May 2013. During that 10½ month period a number of unions and other organisations, quite underhandedly at times, attempted to sit down with me. I remember representatives from one particular insurance company very early in the piece wanted to come to see me about what I thought was a local issue from a local office. It turned out that they were the bigwigs from head office and they were coming in to give me all the reasons we should privatise the workers compensation scheme in Queensland. I pointed out to them that I was the chair of the committee and it was totally inappropriate for them to approach me in the way they approached me and I bid them farewell after giving them a cup of tea and a biscuit.

We were informed that the structure of the Queensland workers compensation scheme is the most complex in Australia—it is the most successful, but it is the most complex in Australia—given that it operates as three separate agencies resulting in duplication and overlap which increases scheme costs. There is no one point of control for scheme costs as both the workers compensation regulatory authority and WorkCover Queensland set their own budgets. As a result of these changes the regulatory authority is to be merged with the Office of Fair and Safe Work Queensland in the Department of Justice and Attorney-General. The authority will be replaced by the Workers' Compensation Regulator.

The consultation, as has been mentioned a few times but it is worth saying again, was quite an impressive process. It was certainly the most complex that the secretariat had ever undertaken. For the research director, Deb Jeffrey, who has been with the parliament for more than 11 years, to say that it was the most complex task that she had taken on is saying something, I would suggest. The Finance and Administration Committee invited public submissions, with a total of 246 written submissions received from employer associations, individual employers, insurers, lawyers, unions, professional bodies, interest groups and individuals. There were a number of individuals who came to see us to tell us their story about how they had been done over for this or that reason. The committee also held 18 public hearings, five in-camera hearings and five briefings. Some of those in-camera

hearings were from people who were very emotional about their experience in our workers compensation scheme. A range of views were expressed by all stakeholders. I take this opportunity to thank my then committee colleagues and the secretariat for their huge effort in putting this particular report together.

Having gone through my preamble, I turn now to the 2012-13 annual report for the workers compensation scheme. Page 9 sets out the performance overview: their targets and what they achieved. There are a couple of interesting points. One of their targets was to consider the premium model to appropriately price and collect premiums. I make the point that the premium model was reviewed and the average rate maintained at \$1.45. In that respect WorkCover were looking to maintain current premiums going forward. They did achieve that. But it is worth noting that the Attorney-General is looking, in the changes that he is proposing in the scheme, to reduce the base premium by 22c or thereabouts. It is interesting and worth noting that I received a document from Master Builders applauding the Attorney-General's announcement on workers compensation laws. In the fourth paragraph they state—

Our industry has had on average a 23 per cent increase in workers' compensation premiums over the last four years, meaning it has one of the highest rates in Queensland.'

They go on to say—

The changes announced by the government today are estimated to reduce premiums by at least 13 per cent.

It is interesting that they say that because that is not what is being said by the Attorney-General and by the department in relation to these changes. What is being said is that we are looking at a 22c reduction on a \$1.45 premium. If you are in a situation where you are experiencing much higher premiums, I would suggest that you are probably going to get your 22c off—you might get a few more cents than that off—but you are not going to get a percentage of something in the order of 13 to 15 per cent off a premium, particularly if you have been hit with some loadings as a result of poor claims experience. I hope I am right in that. I hope the Attorney-General can confirm to me that if someone has shown poor claims experience over a period of time we are not going to reward them by giving them a percentage off those penalties that they are being charged to in some way bring them back to the fold, bring them back to a situation where they are ready to start implementing safe work practices or implement more safe work practices. I wanted to make that point.

One of the things that was in my mind when I first read page xii of the inquiry into the Queensland workers compensation scheme was that looking for a 22c reduction was not part of our review. However, I need to make the point now that one of the areas that we were required to consider was WorkCover's current and future financial position and its impact on the Queensland economy, the state's competitiveness and employment growth.

Clearly, the Attorney-General is looking to implement this reduction in the premium to help with the state's competitiveness and employment growth. Certainly, I and I think it would be fair to say our committee overlooked that aspect of that particular dot point. Certainly we looked at its viability going forward, but we did struggle in that area.

Coming back to the targets and what was achieved, two areas stand out. Of course, common law claims are the main point of contention here. It is fair to point out that the target for common law claims was \$161,000 as an average payout. WorkCover did an exemplary job in that it brought in an average payout of \$138,000. So that was a significant reduction in that. Sadly, on the statutory claim side, the target was an average of \$6,300 per claim and it came in at \$6,960. So it failed in that regard. That is reflected in some figures that I will be talking about later, but I will talk about them briefly now. The statutory claims for the year increased by \$50 million. There was about a five per cent reduction in the number of claims, but the actual quantum that was paid out increased by about \$50 million or just over \$50 million. That is a lot of money. On the other hand, the common law claims remained stable. In fact, I think there were about three or four or five fewer claims in the 2013 tax year than there were in the 2012 tax year. However, there was about a \$52 million reduction in the total payout in common law claims. In my view, some of the changes that occurred back in 2010 are starting to come through the system. It is worth noting that and pointing it out, because I believe it is important to say that they have been doing a darned good job in achieving their goals and so forth.

The next thing that I want to look at is the Queensland government's response to the recommendations of the Finance and Administration Committee's report. I thank the Attorney-General for taking on so many of the recommendations that we have made. There are a few that I am disappointed that we could not have done something with, but perhaps they are there for the future. One of them relates to crews of fishing vessels and the reason for not including them. We are talking about crews of fishing vessels where the crew receive a percentage of the catch. The reason for this

exclusion is that receiving a share of the gross earnings of the vessel makes them partners in an enterprise. A bureaucrat might say that. A salesperson receives a commission, but they are not part of the enterprise. They are in the same boat—no pun intended—as the fishermen in that respect, yet they are covered. I think there is room to massage this going forward. This is not a dead in the water—again, no pun intended—situation. I think we can make some changes going forward. That was one point that I wanted to raise. In the same area, the government response to the committee recommendation No. 2 states—

The government considers that a more appropriate policy response would be for WorkCover to conduct a targeted information and awareness campaign ...

Our recommendation No. 3 states, ‘... the Department undertake an extensive awareness education and compliance campaign ...’ Therefore, we are already there. We have already made that recommendation. Of course, that was supported by the Attorney-General.

A number of other things were supported. One worth pointing out, and others have mentioned this, is that we retain journey claims. That was very important to so many people right across the country and across the state. It is really important that we retain those claims. I know people who have had accidents and so forth going to work and it has had a major impact on them.

Another point that I want to comment on is that the committee recommended that the definition of ‘psychological injuries’ be amended to include the two types of psychological injury identified as category A and B above. Dr Flegg put a lot of work into that when he came on board. The response from the bureaucrats was as follows—

There was no evidence provided to the Committee that psychological injury claims relating to a post-traumatic event disorder are being rejected.

That is exactly right: they are not being rejected. This is fait accompli stuff. If someone has just been robbed or something has happened in their workplace and they have been locked in a closet, beaten up or whatever, we would know about that. The point that we were making is that they should go through the system fairly quickly. It is the more suspect psychological claims that we felt needed to come under category B and be subject to more stringent measures to ensure that the people were fair dinkum in their claim.

The government response makes the point that no Australian jurisdiction makes this distinction. Hello: in Queensland we are innovators. Just this week we have been making changes to many laws as innovators. I do not care that other states are not doing these sorts of things. We should consider doing these things if they are going to better serve Queensland society. In that regard I take their points, but I think the bureaucrats have overstepped the mark by saying that other jurisdictions have not done it. I say, too bad. Other jurisdictions have 15 per cent thresholds and their premiums are skyrocketing.

The final point that I want to make in regard to the recommendations relates to what the Attorney-General has advised us he is going to support or not support. The committee recommended that the existing provisions relating to the access to common law be retained. Of course, as we all know, that has not been supported. I understand why. I understand the thinking behind it. Our committee did discuss the possibility of some sort of a threshold being implemented, but in the end we thought we could probably do the same thing for ambulance chasing lawyers by restricting the amount of money that they could earn off small claims. In other words, we could cap them and push them down. I hope the Attorney-General will give some serious consideration to capping those payouts or the super profits of the lawyers who can claim up to 50 per cent now. That is the agreement they are able to enter into. If the Attorney-General employed a limit of 25 per cent and banned their ridiculous advertising, which sucks people into their offices and so on, I would applaud him for that.

I am still concerned that there will be some unintended consequences from the five per cent cap. The committee struggled with the concept that there could be potential and unintended consequences and people who genuinely need to be supported financially will miss out. I hate to think that that may go on, but time will tell.

I looked at many of the letters and so forth that were sent to us by various organisations which said, ‘You are doing the wrong thing and you are going to hurt the wrong people. You are going to do this, that and the other thing.’ Generally speaking that came from the lawyers. One such letter was from the Queensland Law Society. I have not had a chance to look at this because I got it quite late in the day. It talks about a right to appeal or review a decision of the medical assessment tribunals. It states—

This becomes critically significant when the MAT decision may be one which precludes a common law claim by a worker.

It goes on to say—

We consider that a right of review or appeal from the MAT decision is a fundamental issue of natural justice and equity.

We strongly urge you to support an amendment to the bill to enable a worker either to appeal to an appropriate court or tribunal; or to use the existing mechanisms available to parties to seek a review of a workers' compensation decision from Q-Comp, with subsequent appeal rights to the Queensland Industrial Relations Commission and beyond.

I put that out there, Attorney. It may be worth thinking about. I will finish by mentioning the financials. I note that premiums were up significantly between 2011 and 2013. Statutory claims were up by \$50 million to \$737 million. Finally, common law claims were down quite significantly to \$461 million from \$538.9 million.

(Time expired)