

**Submission
No 34**

INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION

Organisation:

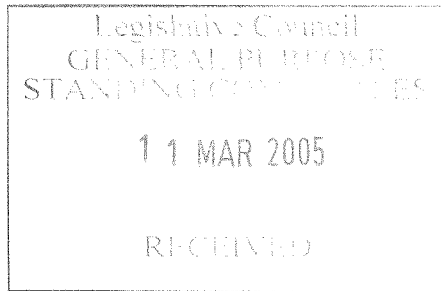
Name: Mr Robert Lalor

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Date Received: 11/03/2005

Subject:

Summary



Submission to:

The Revd Hon Gordon Moyes MLC

GENERAL PURPOSE STANDING COMMITTEE NO.1

Inquiry into Personal Injury Compensation Legislation

I am a forty eight year old male, with a working spouse and two children under our care. I have no completed tertiary education. I have worked "blue-collar" jobs for the better part of my working life. I have been unfortunate to have suffered two work related injuries experienced under two approaches to Worker's Compensation.

My understanding of the purpose of the changes listed for your inquiry is that these changes are meant to stop spiraling insurance premiums and in effect providing a wider range of cover to the general population in the event of something untoward happening to them either at work or enjoying their leisure activities.

I believe that many of the changes are for the good, limiting legal costs involved in pursuing matters for example. On the one hand this benefits the injured party and gives them access to legal recourse where previously costs may have been prohibitive in the final outcome. By limiting costs that can be recovered by the legal profession this also limits the number of legal people that will pursue such matters.

In limiting and capping damages payable in injurious situations insurance premiums logically should stop rising but will they. I would not be surprised they did not rise but I would be very surprised if they fell substantially in relation to the number of claims and reduction in size of payouts to those injured.

In bringing about these changes, legislation has the effect of giving me and I am sure, the general population, the impression that our court system is not trusted to adjudicate on such matters. This impression cannot help but affect the perception of our legal system with regards to other matters.

My understanding of the purpose of laws and legislation is three fold. (1) It gives the population a framework under which to responsibly conduct itself in an appropriate manner (2) It provides deterrents in the form penalties for operating outside this framework and (3) it provides peace of mind for those who suffer injury as a result of someone else's actions, inactions or omissions.

I feel that legislation also attempts to protect those who most need protection and to apportion responsibility in a fair and responsible manner.

I cannot help but feel that some of these changes apportion responsibility in an unfair manner.

Not only do certain of these changes reduce the cost of insurance they also reduce the deterrent for non-compliance while at the same time reducing an individuals avenue of redress.

Insurance premiums kept low and affordable would seem to mean a possible reduction in an individual's quality of life and his/her right to redress.

The burden would appear to have shifted from those undertaking and in control of an activity to those that are injured as a result of that undertaking and those that have no control over that undertaking. Caveat emptor!

I believe and have seen evidence of the result of another shift in burden as a possible result of these changes.

When the general public's perception is such that the effort balanced against the outcome is disproportionate, those injured will choose to pursue their medical treatment through Medicare. This again shifts responsibility and costs from those most responsible to the population in general, in effect meaning that the Australian population in general is funding reduced insurance premiums for those that should be bearing that cost.

While the changes introduced have beneficial effects for some there are also hidden costs to the wider community.

I feel that I have not expressed myself as well as I would have liked but I am operating under a disadvantage.

Several years ago while at work as a manager at a hotel I was hit in the face with a sledgehammer and as a result have not been able to resume my place in the workforce. I suffer from constant acute pain that disrupts my daily life, has affected my relationships with my wife and daughters. I experience cognitive difficulties and higher function difficulties. I do not comprehend what I read without going over and over it. I have difficulty in leaving my home unaccompanied because I get lost even in places with which I am very familiar. I suffer rage outbursts. I can't calculate change when shopping. I am constantly fatigued. I have great difficulty in spelling where once it was no problem. I have difficulty in using stairs as I don't remember what foot to lift.

This representation has taken monumental effort on my part as I started it on January 30 when I saw the notification in the Daily Telegraph.

I don't know what the answer is, however, I don't believe that the burden of financially coping with serious injury should be shifted to those less capable of discharging that responsibility.

Thank you for taking the time to consider my thoughts.

Yours sincerely,

Robert Lalor.