

CORRECTED VERSION

STANDING COMMITTEE ON ECONOMY AND INFRASTRUCTURE

LEGISLATION COMMITTEE

Inquiry into the Road Safety Amendment (Car Doors) Bill 2012

Melbourne — 23 May 2012

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Witness

Mr A. Tivendale.

The CHAIR — I would like to now call Mr Andrew Tivendale and to welcome him to the table. Mr Tivendale, thank you for being here with us this evening. I have some formalities that you will have now heard several times, but I have to go through them again. We are particularly keen to hear your submission, and we would like to welcome you here to the committee tonight. Thank you for sending in some written information. I think you are very aware that we are under time constraints, but we are very keen to hear your story firsthand.

I now have a formality to read to you, just so that you are extremely aware of the circumstances in which this committee is operating. I welcome Mr Andrew Tivendale to tonight's public hearings of the Legislative Council Economy and Infrastructure Legislation Committee in relation to the Road Safety Amendment (Car Doors) Bill 2012. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to the provisions of the Legislative Council's standing orders. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same comments, they may not be protected by this privilege. All evidence is being recorded. You will be provided with a proof version of the transcript within the next week. Transcripts will ultimately be made public and posted on the committee's website.

As I have said to the other groups that have presented here tonight, we would be very keen to let you use the 20 minutes that you have in the way in which you would like. I am certain that my colleagues would like some questions at the end, so if you could allow us to have a little bit of time, that would be very useful. It is currently 9.16 p.m., and we really welcome your comments and look forward to hearing them.

Mr TIVENDALE — And thank you for inviting me to speak. I would like to preface what I am going to say with the same things that Drs Martin and Cross said: that I am not here in a vindictive manner. I am not vengeful. I am simply here in the hope that we can make the changes necessary so that other people, other families, other partners and friends, and everyone who was affected through what happened to me do not have to go through that.

On 24 March 2011 last year, I was riding my bike to go out to dinner and it was dusk — 7.45 p.m., something like that — and I was wearing a high vis reflective vest. I had flashing lights front and rear. I was riding down Lygon Street, where I was going to dinner, and I was outside someone's window as she opened her door. She then used her door to push me into the traffic, and the following car ran over my head, basically. Twenty-four hours after that I was still conscious. I was then placed into a coma, and I stayed in the coma for 55 days and spent nearly 6 months in hospital all up. I was actually re-employed last month, so I lost a year of my life. There are also certain long-term health aspects, which I am going to continue to deal with for the rest of my life. That is my story, short and sweet.

In terms of the changes that can be made, I feel that harsher penalties as a motivation for people to look before they open their door — as a deterrent for not looking — is one of the keys. Education is definitely the main part. There is no monetary value that you can put on what I have been through and what Drs Cross and Martin have been through; it is just simple prevention. I think that demerit points in particular are a high motivator — that people are much more fearful of losing their licence than having a bit of a hit to their hip pocket. It depends on your financial circumstances and all the rest of it, but most people do need a licence, and so I feel that should definitely be included.

The police discretion and enforcement is an interesting one that has come up a few times tonight. I do not believe there are any representatives from the police force here; however — —

The CHAIR — We have met with them before.

Mr TIVENDALE — You have heard from them. In my case, as I was in a coma, my partner, Courtney, was involved with the police and asked what was going to happen to the lady who doored me et cetera. It came to light that she said she had looked and so therefore the minimum penalty was imposed — whether she looked or not. All she had to do was to say she looked — no proof either way — and therefore the minimum penalty was imposed. That does not exactly stand beside what happened to young Mr Cross, where the driver was not even interviewed. However, the fact that simply by saying she had looked, when in my mind she could not have, she gets away with the minimum penalty — I feel that is the wrong thing.

Something that has come up in the research that has been done is that St Kilda Road is one of the problem spots for dooring, and as well as the high traffic volumes and the short parking time — high turnover, or whatever it

is — there is also a really good bike lane that goes down St Kilda Road. When people can open their door without any fear of their door being taken off by a truck that is coming down the road, it would appear that the research suggests that they do not care, that they are happy to just open the door, and if a cyclist collides with them, there is going to be pretty minimal damage to their car and minimal damage to them. The cyclist could well end up in my situation, but it appears they do not care. So please, let us do what we can to make them care. That being said, I am a driver as well. I have a car and a licence and all the rest of it. I look.

The CHAIR — Can I just ask a question about the education, which you spoke about before? Do you have any suggestions about what might be a good opportunity for education, something that both as a car driver and also as a cyclist might be worth our while considering or being presented as a finding by this committee?

Mr TIVENDALE — Unfortunately I do not have a simple answer; I do not think anyone has. I think the opening of the door with the left hand is absolutely hands down a fantastic strategy. I am currently learning to do that myself. I got my car last month, so it is still a new thing for me. By putting that into the licence test and putting that into the phases where we are actually educating people about how to use their cars and then starting them off in the right direction, hopefully that would continue.

The CHAIR — But you believe there should be demerit points and that there should be fines as well?

Mr TIVENDALE — Yes.

The CHAIR — In conjunction with education?

Mr TIVENDALE — Yes.

The CHAIR — Terrific; thank you. I know my colleagues have some questions.

Ms PULFORD — Thank you very much for coming to tell us your story this evening. Do you believe there are some types of incidents that should attract infringement notices and others that should go to court, and how would you differentiate between them?

Mr TIVENDALE — That is a very complex question. There is a part of me that says that any of them where a collision occurs should go to court, and where there is no collision there should be an infringement notice and demerit points. However, that is unrealistic. The courts do not have time et cetera. Because there are instances where it is unknown on the spot how much damage has been caused, it makes it very difficult. For instance, an ambulance came to pick me up. I went to hospital. I was assessed. They kept me in overnight for observation thinking that I would go home in the morning, and yet six months later I was still there. Based on the information at hand my injury was not serious, and yet it was about as serious as you can get.

Ms BROAD — Thank you for your evidence this evening. The area that you have highlighted goes to that space between on the one hand an offence, education and penalties, but in between there is enforcement. There are other examples of matters where that area has changed over time. One that I have had particular experience with has been in relation to family violence. At one time penalties and offences under the Crimes Act in this state were not enforced by police, and it took a very strong set of actions to introduce a code of practice and training for all police officers to ensure that the law was enforced. I guess the question I would ask of you is whether you think in this mix of matters that we are considering there is some space for considering that matter of enforcement and whether there needs to be some action taken there quite apart from what the penalties may or may not be.

Mr TIVENDALE — I believe absolutely that there needs to be more enforcement. There is no doubt that what occurred to me was not a minimum possible offence. It was not a maximum either. I do not believe there was any malice in the action. However, given the fact that it was decreed as the minimum possible, yes, so absolutely enforcement is the key.

Ms HARTLAND — Ms Broad just asked the question I would have asked. I just want to say thank you.

The CHAIR — I would also like to say thank you for giving such a frank and open analysis of what must have been an extraordinary circumstance. I think it helps us to craft our decision. We are very pleased that you took the time out to come here and to be interested enough to support this inquiry and to give what, as I said, is a very transparent and very honest dissertation to us tonight. As I said to Drs Martin and Cross, they threw

down the gauntlet to say that we should be doing the right thing, and I would like to assure you, too, that as a committee that is exactly what we are attempting to do.

I want to thank you for your time and wish you every success in your ongoing recuperation. It has been fairly remarkable to see you sitting here after what you have been through and very inspirational to a lot of cyclists, I think. I would really like to thank you very much indeed. We are having a deliberative meeting on 6 June to discuss all of the issues that have been submitted to us, and your evidence will form a very real part of that. Thank you very much indeed for being with us this evening.

Mr TIVENDALE — Thank you.

Witness withdrew.