



Speech by

Miss FIONA SIMPSON

MEMBER FOR MAROOCHYDORE

Hansard 12 November 1998

HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Miss SIMPSON (Maroochydore—NPA) (4.38 p.m.): The Opposition will be supporting some of the important public health issues dealt with in this legislation, such as the Cancer Registry and the Pap Smear Registry. However, the Opposition will not be supporting the gutting of the role of the Chief Health Officer, an independent medical officer under the Act.

This Labor Government claims to be providing accountable Government and then delivers this ill-considered and rushed overhaul of the Chief Health Officer's role. This legislation poses a major potential for a conflict of interest and the compromising of health standards. In short, it places more power in the hands of the bean counters and weakens the important safeguard of having a statutory office-holder and an independent medical officer who reports directly to the Minister and who has the power to represent health standards first and not just budget considerations on public health issues.

The Bill brings about an extraordinary transfer of statutory powers relating to public health standards from the independent medical officer to the CEO. While the chief executive position is currently held by a medical doctor in Queensland, that is not a requirement of the legislation before the Parliament. The Minister uses a range of excuses for this assassination of the role of an independent watchdog of public health standards, and none of those excuses stacks up. She has bowed to bureaucratic pressure and rushed to destroy this position when there has been no good reason for doing so. Time must be given for proper consideration. Let this role be considered properly and let there be proper consultation with the community. Let us not see a rush job that will cause great concern.

This Bill centralises power with the chief executive officer of the Department of Health. There is no legislative requirement for the chief executive officer of the Department of Health to be a registered medical practitioner. The current Health Act was specifically designed to be administered by a medical officer, with all of the legal and ethical accountabilities attached to the practice of medicine.

Interestingly, the current Minister for Health, when shadow Minister for Health, was vehemently opposed to centralised power. Her speech on 26 November 1996 to the Health Legislation Amendment Bill (No. 2) contained no fewer than 24 scathing references to centralised power. She stated—

"Never before have we seen such an enormous grab for centralised power. Never before have the people of Queensland been so dominated by Charlotte Street, Brisbane. Never before have the people of rural, regional and remote Queensland been so comprehensively duded by a Government."

She went on to say—

"In reality, more than ever before, the real power of decision making, the real determination, has all been handed to the director-general of Health.

It is stressed throughout the legislation that the chief executive, that is, the director-general, has all power and authority over the districts and is also the sole employer of all the employees of Queensland Health, both as public service employees in the organisation or public sector employees providing health services throughout the community. Parts 4 and 4A deal with administration and the provision of facilities for food and other services and, once

again, reinforce the total control of the director-general as chief executive in the daily running of the health districts and hospitals."

For someone who was so vehemently opposed to centralised power, she has certainly been hoodwinked or led timidly by the nose by her bureaucrats down the path of total centralised power to her chief executive officer. The CEO of Health will hold all of the cards—the financial, the industrial and the immense statutory powers. As we know, the current CEO of Health is a medical officer. I put on the record that I am in no way reflecting on his character. I am talking about the principles of fair and accountable legislation and proper checks and balances.

We have to ask: what is the rush? It was intended to have all of these very serious issues fully debated on the floor of this Parliament as part of the establishment of a new public health Act. I understand from briefings that that Bill was proposed to be introduced either next year or in about 18 months' time. This is the most appropriate course of action—not surreptitiously placing in a nuts and bolts Bill, the way they have done, the mechanisms to take away these roles of the Chief Health Officer. It is the worst form of deception and from a representative of a Labor Government that falsely acclaims accountability and honesty.

In most jurisdictions the historical reason for the separation of powers between the financial management and public health streams of the various Health Departments has been the significant number of instances where financial accountabilities sometimes conflict with the action necessary to protect the health of the public. Similarly, there have been many instances in the past—and these will no doubt occur again in the future—where the bureaucracy wished to prevent the accountable Minister from understanding the full impact of administrative decisions that negatively affected public health and wellbeing. We do not want bean counters in charge of a public health system without appropriate checks and balances and without an independent, impartial and totally transparent system that makes sure that concerns of public health are paramount.

It is imperative for an independent, accountable and totally professional medical practitioner to be the holder of the statutory powers—not second-hand powers delegated by a chief executive officer. That practitioner should hold the statutory powers in their own right to uphold the public health good for all Queenslanders.

Of all the Government departments providing service to Queenslanders, the Health Department is the most important, for the Health Department deals in the sanctity of life. Consequently, no cover-ups, no white washes, no "sweeping under the carpet" must occur within this Government department. It is interesting to reflect that representatives of a Labor Government who emphasised the need for accountability, transparency, honesty and ethics to ensure that that sad example of what one could expect—Ward 10B—could never occur again are setting the Health Department on a course where, unfortunately, many Ward 10Bs could occur in the future; those same representatives will vote for the removal of the statutory powers from the independent, impartial and accountable officer and place them firmly with the chief bean counter.

On the grounds of accountability and transparency, this Bill must be amended. As I have said, it is a most extraordinary combination of legislation. The Government is bringing in the new Pap Smear Register and there are provisions in the Act to allow the chief executive officer to have the Cancer Registry maintained by the Cancer Fund. Then we have this diabolical section of the legislation which totally undermines the checks and balances that we need in our health system.

I will deal with some of the issues that the Minister is claiming make the changes to the Chief Health Officer's role necessary. But as I have said, why the rush? These things should be considered properly, with full debate, knowing exactly what the implications are, particularly as the new public health Act is proposed next year.

About 18 other Acts are affected by the gutting of the powers of the Chief Health Officer. Significant changes are also proposed to the Mental Health Act, an Act which is also due to come before the Parliament in the not-too-distant future. Once again we have to ask: why the rush? One of the excuses I was given during the briefing was that the Commonwealth may not roll over funding for the Pap Smear Registry and that it was terribly important that this legislation proceeded as urgently as possible. I do not have a problem with the principle of this legislation in regard to the Pap Smear Registry, provided that the safeguards work in the way they are intended to work. I welcome its introduction, because of the obvious health benefits to women.

But there is no reason for this type of legislation to be included with the Chief Health Officer's role. It is bizarre. It is a real dog's breakfast. The Health Act should be subject to a total overhaul. Also, some of those powers that I mentioned may be changed. They need to be reviewed. It may be appropriate that they are enforced by different people. However, there may also be powers that need to be redefined and more closely restricted in legislation. But once again, what we have seen is a mishmash of legislation whereby there is a transfer of powers without proper consideration and reconsideration of what some of those powers entail.

In relation to the Mental Health Act—I have spoken to a number of advocacy groups and psychiatrists in the mental health area. They were totally unaware that the Minister had legislation before the Parliament proposing this very important change to the Mental Health Act. The question once again is: why the rush? Why has there not been an appropriate level of consultation? The Mental Health Act was amended only in 1996 to change the role of the Chief Health Officer and to insert the role of the Chief Health Officer in a number of sections. Under the legislation currently before the House, that role of the Chief Health Officer is once again being removed. It is also likely that we will have a new Mental Health Act next year. We have to ask: what will the powers and responsibilities of the chief executive officer or other statutory office holders be next year when the Mental Health Act is once again amended? This is not the way to do this. It is totally inappropriate.

By the way, as honourable members would appreciate, it is a total furphy to use the Pap Smear Register as an excuse to try to push this legislation through as fast as possible with these other pieces of legislation tacked on. I do support the Pap Smear Register. However, I have talked to the people in the office of the Federal Minister for Health and they have assured me that they are satisfied that Queensland is on track with this registry and that there is not a funding crisis, thus, the urgency in relation to funding implications is a furphy to try to piggyback other pieces of legislation through the Parliament.

Another excuse that the Minister is using in order to gut this watchdog on the health system is so-called lean management issues. Once again, when I asked what the so-called line management issues were, no substantial evidence was provided to back this up. I am talking about substantial evidence to back this up, when we consider that this is such a fundamental change without the proper consideration of those powers and the fact that a new public health Act is due in the not-too-distant future. So what are these major problems that are vaguely and imprecisely alluded to? It seems to be a mystery that the Minister has not shared with the Parliament, but which she is expecting us to trust her on. That is simply not good enough when we are talking about a Bill that significantly downgrades the role of the Chief Health Officer with substantial changes and a power shift of responsibility and accountability, or a downgrading of accountability.

Also in the briefing I was told that Crown law advice had been received which recommended this course of action because of the so-called line management difficulties. I notice that the Minister is not listening. I challenge her to table that Crown law advice because we want to see in an open and accountable Parliament how she is justifying this most disgraceful gutting of this independent role without providing the evidence before the Parliament to justify why it is such a rush job and done in such a mishmash of a way. So she should table the Crown law advice.

In her second-reading speech, the Minister claimed that, by keeping the licensing powers of private hospitals with the Chief Health Officer, conflict of interest issues are avoided. There is no explanation as to how the same conflict of interest issues are avoided relating to the public health system where the chief executive can override this new position of manager of public health, which has no statutory comeback. What this Minister has dished up from her bureaucracy is fraught with problems and a lack of checks and balances.

Another excuse that the Minister is using for trying to rush through this legislation is that the structural changes to the department in 1996 meant that there is a problem with the Chief Health Officer and the role that that person is performing. Yet if we look back in history we realise that, under the previous regions from 1991 when there was a restructure of health, the Chief Health Officer also did not have line management over the regional managers, but there were apparently no significant problems in the way that the system operated. There is no justification on the basis of structural change for what is being done through this legislation.

Let me address the issue of the new manager of health. Much has been made in the second-reading speech and Explanatory Notes about the fact that the person in this new statutory role has to be a medical officer. This is extraordinary. This is a statutory position that has no statutory powers; it has delegated powers. In other words, the manager answers to the chief executive officer, who does not have to be a medical officer. The manager does not have a guaranteed direct line of communication to the Minister but, most importantly, there is this conflict of interest in relation to having a true, accountable and transparent public health system in which a person can stand outside of the financial industrial considerations and provide clear, precise and untainted advice on the basis of public health need.

As I have said, I am in no way denigrating the current position holders, but we have to consider what is the best legislative structure for the future. Certainly, there does need to be a review of these powers, as I have outlined. However, if we look to other States and jurisdictions around Australia and overseas that have gone down the path of overhauling their legislation, we see that they have not done it in this way. When I look at the Australian Capital Territory and its particular legislation and a number of the other Legislatures, I see that they clearly have more checks and balances, accountability and transparency in their legislation than what has been dished up in this Parliament.

The Minister has offered a document as briefing which outlines the role of the Chief Health Officer under her proposal, but once again it is important that not all of these roles are clearly anchored in legislation. Therefore, it does not really provide much of a basis for confidence when we are talking about the need for somebody who is able to provide independent advice. So there are questions of consultation and of why there is a rush. Quite frankly, we just are not confident that the Minister has properly considered this and really understands the full implications of what she has done. The Opposition will be moving amendments which are aimed at maintaining the status quo in regard to the Chief Health Officer to enable the proper process of an overhaul of the legislation to occur, with full public consultation, a review of those powers, and consideration of the appropriateness of those powers, as I have outlined before.

Furthermore, we will be seeking to move some amendments in regard to the Cancer Register as well. In this regard, I will refer to the concerns of the Scrutiny of Legislation Committee. It is a matter that has been raised in this Parliament before about the need for accountability when Governments start to contract out services. This is a service that is intended to be contracted out to the Cancer Fund, an organisation which has a very great reputation in this State for research, certainly for looking after Queenslanders who have suffered the effects of cancer—providing that support—and, very importantly, also for education. The legislation itself does not specifically refer to the Queensland Cancer Fund, and it is appropriate that that is something that would be dealt with by regulation.

However, I believe that it would also be appropriate that the contract that is entered into with the Cancer Fund also be subject to the scrutiny of the Parliament. I understand it is difficult to make a non-statutory body subject to the Financial Administration and Audit Act, so I am proposing to look at just that aspect of responsibility for which the Cancer Fund enters into a contract to provide. I believe that that is in the best interests of open and accountable Governments; it is certainly in the best interests of everybody. It is onerous, so it is restricted just to that particular area.

It also provides a certain degree of security because there is no guarantee, of course, that the Queensland Cancer Fund, say, in many years to come will still be the organisation providing that service. Obviously, that is not what we envisage here today, and we hope that the Queensland Cancer Fund will go only from strength to strength. Once again, on the principle of good legislation, it is looking at the appropriate checks and balances and accountability. I believe that the amendment that I will be moving in that regard will seek to bring about the appropriate scrutiny of the Parliament in a way that largely addresses the issues that have been raised by the Scrutiny of Legislation Committee. I will outline those particular amendments in more detail later on.

However, I would like to say that this legislation has really stunning implications for the State when one takes away the issues of the Pap Smear Register and the Cancer Register and looks at those areas of administration. Once again, it highlights how this Minister has no idea how to make decisions in a way that brings about accountability and does not lead to her being led by the nose by her bureaucrats. Since she has been Minister, we have seen a range of things happen up and down the Queensland coast that clearly shows that she has not been in control of her portfolio. She has no idea how to be a Minister who looks after the issues of Queensland. We have already seen a situation in relation to the James Cook University where the community clearly wanted an undergraduate course, and the coalition gave a commitment to provide that. But what happens with this Minister? She gets involved and gets advice from people down south and decides that she is going to alter things. It looks like she is really getting rapped over the knuckles in that regard.

At the end of the day, the Minister has to look at the issues as they affect the community and not just blindly accept the advice of the department. We have seen a similar situation with Maryborough. Once again the community has stated clearly that if the Minister starts to listen to only the advice of bureaucrats—

Mrs Edmond interjected.

Miss SIMPSON: There will be more in the next debate as well. If the Minister listens only to the advice of bureaucrats and does not listen to the issues of concern to the constituents, the people in the local area and the local professional staff and understand their concerns, she is sure to make mistakes. To see this we have to look only a little further south, at the Gold Coast. This is an extraordinary situation. We have never had so much money provided as we have with this Medicare agreement. Once again, this Minister is totally out of control in relation to her department. She does not understand the issues of public health administration.

The up-coming legislative program has been thwarted to a certain extent by the way the Minister has rushed this Bill into the House and sought to push it through without proper consultation with the people who will be affected. As I have gone around and started talking to various people who have an interest in the various Acts—some 18 Acts will be affected by the changes relating to the Chief Health Officer—I have heard the same story: the Minister has not consulted. Obviously the consultation

has been limited to within the department, and people who have a lasting interest in public health in this State, both as consumers and as providers of health services, have not been talked to.

The concern is that this Minister still has not learned the lesson. We are seeing an absolutely diabolical piece of legislation being pushed through the Parliament. Some aspects of it are very good, but those aspects are being used as the vehicle to bring about changes to legislation which I believe will ultimately undermine accountability and undermine the independent advice we should expect a Minister to receive—from those who are not beholden to someone in the Health Department who is not necessarily even a medical officer.

As I have indicated, the Opposition will support the proposals in the Bill relating to the cancer registry; however, the Opposition will not support this diabolical gutting of the role of the Chief Health Officer. This is a matter which must be properly considered and not rushed.
