



Speech by

KEN TURNER

MEMBER FOR THURINGOWA

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TRANSPLANTATION AND ANATOMY AMENDMENT BILL

Mr TURNER (Thuringowa—ONP) (10.15 p.m.), in reply: I acknowledge all of the people who have played a part in reviewing and offering submissions to my amendment to the Transplantation and Anatomy Act. The Legal, Constitutional and Administrative Review Committee put in an enormous effort.

The reason behind my Bill was to make organ donation more readily available to the people who need it to sustain life and to take the responsibility from grieving relatives to make a decision that they would prefer not to have to make and assure them that this is what their loved one wanted. Dr Fisher from the University of New England stated in her submission—

"If people can decide to leave their body to a university and this is a matter for the individual, then why should organ donation be different?"

She went on to say—

"Organ donation takes place in a health care context and if people can consent to have surgical procedures done then their consent should be able to determine whether or not to have their organs removed following brain death."

She also said—

"If an executor is obliged to comply with the deceased's wishes concerning burial or cremation, it is plausible to claim that the executor or next-of-kin have a similar obligation with relation to the wishes of the deceased concerning organ donation."

The submission from the Donor Tissue Bank of Victoria stated—

"The majority of our members have been through the heartbreaking decision to donate tissue from a recently deceased family member. Knowing the wishes of the deceased person helped us, but it would have been far less traumatic if the decision wasn't placed in our hands."

It is standard practice in hospitals to consult with the family members of a potential donor. The relatives are always treated with respect and sensitivity when being approached by the physician in charge for the use of a loved one's organs and tissue. These are highly trained and sensitive people. There is no reason to believe that this aspect of the process will change with the passing of this Bill. It would still be necessary for staff to consult with next of kin to discuss family history and to establish if the consent might have been withdrawn. Knowledge of the donor's intentions offers relief for the ICU staff and the family as it relieves the family of the responsibility of making the decision.

It is very rare for families to overturn a deceased's wishes when those wishes are clearly known. In a 1998 Queensland Health survey, 94% of respondents indicated that they would provide consent if an immediate family member died and had clearly indicated their intentions to donate their organs. It simply takes away the need for the relatives to make a very difficult decision at a very difficult time.

I know people who have been forced to make this decision and who are still haunted by the choice they made. One woman who phoned me after she read about the Bill in the paper said that she had declined to donate her son's organs and has agonised over it for two years, wondering about the life she may have been able to save. Had the decision already been legally made by the donor, she

could have accepted that and not had to agonise over it. She is now receiving counselling two years too late. As things are now, it is open for relatives to have "buyer's remorse" and blame themselves for their decision.

The Australian College for Emergency Medicine offers its support for the Bill, saying that, by giving such legislative support to the donor's wishes, stress on the family will be reduced by removing from the family the need to make decisions about organ donation at such a difficult time.

The Legal, Constitutional and Administrative Review Committee says that it cannot endorse the Bill because it takes away the need for hospital staff to consult with families—even exclude them—yet it admits that the Bill contains a safeguard where the hospital staff need to establish from the family that the information is correct and consent has not been withdrawn, even verbally. And that is correct. Clause 25A(3) of the Bill incorporates a safeguard that the donor intention is effective only in so far as hospital staff have no reason to believe that the indication is incorrect or that the consent has been withdrawn. Therefore, it is still necessary for staff to discuss donation with a family in case the consent has been withdrawn or the information is incorrect.

The committee suggests that my Bill is undermined in the circumstance of accidental death as the potential donor is seldom carrying their driver's licence or donor card. This would be of little significance if the information is placed on a central registry. If we had a national central registry, even if the person died interstate, no-one would be overlooked. At present, the next of kin of potential donors are often not approached because the patient is not recognised as a potential donor.

Section 14A of the Traffic Act 1949 prevents the release of driver's licence information to another person without the driver's written agreement. Therefore, the Act needs to be amended to allow this information to be passed from Queensland Transport to Queensland Health to be placed on the register. Ideally, this information should be updated every 24 hours. Currently, organ donors are recorded in Queensland Transport's licensing database—not available after hours or on weekends, which limits its function as an organ donor database.

I strongly urge the Minister for Transport to put this amendment into effect to link both the Queensland Transport and Queensland Health databases immediately, no matter what the outcome of my Bill. This alone—the passing of information from one Government department to another—will have a dramatic effect in increasing the donation rate. I note that Australians Donate, in its submission, would welcome support in using the Federal Health Insurance Commission's database, attaching donor status to the commission's records to give the best possible chance for a truly national database. This is an excellent solution.

Queensland Health, in its submission, has stated that the counter of a Queensland Transport customer service centre is not an ideal place to be making important decisions about donation. I have to ask: is it better to ask the grieving family of a potential donor at the hospital? A person has a learner's permit for six months. Surely this is time enough to consider the implications and discuss it with family members.

It was also said that when people get their licence they are unlikely to be correctly informed about what organ donation means. This is also overcome with an information kit made available with every renewal and every new licence. Information kits provided by Queensland Health could be handed out with every learner's permit and every renewal of a driver's licence. This is already done in Western Australia and South Australia. The kit could contain: information on the organ donation process and that a potential donor can choose to donate all or only one organ—the difference between circulatory death and brain death; a form to sign giving permission to use one's organs; list of organs and tissue so that people can choose which organs they are prepared to donate; and an option for endorsement from a relative showing that this issue has been discussed. There could be a phone available to link up to a free call number for more information. For people without a driver's licence, an identification card with the donor's photo similar to a driver's licence could be issued as a donor card also by Queensland Transport, also to go on the register.

The committee suggested that there were better, more effective means of improving the organ donor rate, such as an organ donor advocate to promote organ donation in schools, churches, community groups, etc. This is also a wonderful idea. A donor clause in a person's will has also been suggested. Most wills I have ever heard about are read days after the burial. I think that would be too late! Another suggestion is a donor card such as the one that the Australian Kidney Foundation provides.

In 1998, not even one of the 40 Queensland organ donors had signed a donor card, yet 14 had given their approval on their driver's licence. Approximately 54% of Queenslanders who hold a driver's licence have elected to record their willingness to be an organ donor on their licence. The driver's licence works.

The committee suggests that we can increase education and awareness for organ donation and conduct surveys to measure the effectiveness of these efforts. Yes, that would be good. But as

surveys already conducted have shown, Australians are very willing to consent to organ donation. All that is needed is to put the opportunity before them. And what better way than at the counter of the licensing centre? We already know that works. We do not need surveys to measure effectiveness.

This Bill was introduced into this House in November 1998—10 months ago. The committee members say that they cannot endorse the Bill. They recommend that the Labor Minister for Health consider reviewing the Transplantation and Anatomy Act to establish whether these provisions should be amended and maybe raising it at an appropriate Australian Health Ministers Forum. I have to wonder when this might happen and how many more lives will be lost.

Last month, I attended the annual service of thanksgiving in Townsville, recognising the gift of life given by the donors and their families to the recipients and their families. The lighting and extinguishing of the candles, symbolic of one life given to save or enhance the life of another, was very moving. There was an overwhelming feeling of goodwill. Support programs for donor families acknowledging the gift that they have given are tremendously important. Equally important is public awareness. And had this service been publicised more, it would bring to the attention of the community the needs of potential donor recipients. It was apparent that some of the donor families and recipients knew each other well, and I would recommend that families be encouraged to make contact if both parties agree.

I intend, at the Committee stage of the Bill, to move amendments that cover all of the items that I have spoken about in my speech to complete a full donor model, including:

- changes to section 14A of the Traffic Act to allow the passing of information from Queensland Transport to Queensland Health;

- changes to the Traffic Regulations 1962 to allow licence holders to change the donor consent if it is incorrect or they have changed their minds;

- to ensure that Queensland Health supplies the necessary information in a kit form to be available with every new or renewed licence; and

- to ensure that Queensland Health works towards establishing a national database.

The purpose of this Bill is to make every potential donor who has agreed to be a donor recognisable to the medical staff, to remove the responsibility of families from making the decision for their loved one and being given the knowledge that this is their loved one's wishes. A legal "yes" on the driver's licence or identification card would do this.

I received from the Legal, Constitutional and Administrative Review Committee copies of 42 submissions. I have studied these carefully, and I have broken them up into the following categories: support for the Bill, 20; against, 14; undecided and just comments, 8. These submissions confirm for me comments I have received from the general public that the majority of Queenslanders agree with making the driver's licence a legal document.
