



Speech by

**Mr S. SANTORO**

**MEMBER FOR CLAYFIELD**

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**TRANSPLANTATION AND ANATOMY AMENDMENT BILL**

**Mr SANTORO** (Clayfield—LP) (10.11 p.m.): This evening it gives me a great deal of pleasure to speak to the private member's Bill introduced by the honourable member for Thuringowa. This very important piece of legislation has been allowed to languish on the Notice Paper since last November. As I have pointed out previously, it is simply not good enough for this Government to allow very worthwhile legislative initiatives from the non-Government side of the House to be delayed in this fashion.

Before outlining my views on the substance of the Bill, I wish to say something about its author, the member for Thuringowa. From the very first time I heard him speak in this Chamber I have been impressed by his compassion and his dedication to the ordinary men and women of his electorate and the State and his commitment to advancing the public good. Up until recently, private members' Bills were on controversial issues of topical concern rather than on issues of significant and enduring public policy importance and in respect of which the person introducing the Bill secured no immediate partisan benefit. This is such a Bill. Based on what I have just said, it sums up the sort of person that the honourable member for Thuringowa is.

Although this Bill is a brief one, it is a singularly humanitarian one, and one which has significance well beyond its brevity. In essence, it seeks to facilitate the clear wish of persons who want to donate their organs by the affirmative marking of the organ donor space on drivers' licences. At the moment, under the Transplantation and Anatomy Act there must be a "signed writing" by the donor before the organ transplant can take place. The marking of a driver's licence does not meet the requirements of the legislation and, despite the donor's clear wish, permission of the deceased's next of kin is

required before tissue can be removed from the body of the deceased person.

It is understandable that this permission is sometimes refused by relatives who are distraught and emotional after the death of a member of their family. Each one of us in this Chamber can empathise with and understand the sort of trauma that people go through in these circumstances, and it is often just too difficult for people to have to make such a decision. Yet, as the member for Thuringowa pointed out when he introduced this Bill, Australia now has a shortage of organs available for transplant, and this situation is especially critical in Queensland. The number of Queensland organ donors per million of the population has dropped from 14 in 1993 to only 11 in 1997, and that low figure is pretty much in common with the rest of Australia, with the exception of South Australia and the Northern Territory.

I do not know whether the Honourable Leader of the House wants to talk about my tongue. Perhaps I should talk about his throat. I am sure that he does not regret having his replaced.

**Mr Mackenroth:** I can give someone half a lung.

**Mr SANTORO:** What would the honourable member do about the other half?

**A Government member:** It's not there.

**Mr SANTORO:** That is precisely the point that I make to the Leader of the House. I would not wish that on either him or the House.

In the eight-year period from 1989 to 1997 there have been 1,831 organ donors in Australia, resulting in 3,412 kidneys, 987 livers, 940 hearts and 101 pancreas. However, there are worrying trends. There has been no increase in organ donations over the past five years, and between

1996 and 1997 the average age of donors increased from 38.5 years to 43.1 years.

The Australian rate of organ donation is amongst the lowest in the Western world, with the Australian rate of 10.3% in 1997 comparing unfavourably with 20.6% in the United States, 15% in France, 14.5% in the United Kingdom, Canada, Germany and the Netherlands, and a very high 29% in Spain. Each year many hundreds of Australians are the recipients of organ transplants. Many of them would die without them. I know a number of people who have received kidney transplants and who would otherwise have died a very slow and painful death. Any member who has friends or relatives who have to live off a dialysis machine knows just how much these poor people have to put up with and the pain they suffer. Anything that we can reasonably do to help these people must be done.

For some years now the Government jet has been used to transport organs, mostly livers, for urgent transplant operations, and all of us would support the use of the jet for this purpose. The member for Thuringowa pointed out that around Australia there are 3,000 people on waiting lists for either organ or tissue transplants. Tragically, some of those people will die waiting simply because insufficient organs are available.

The amendment introduced by the member deems the indication on a driver's licence that the person has consented to be a donor to be "signed writing" by the person consenting to the removal after death of tissue from the person's body for any of the purposes outlined in sections 22 and 23 of the Transplantation and Anatomy Act. Some safeguards are introduced in this Bill. For example, reliance cannot be placed on the driver's licence notation if there is reason to believe that the indication is incorrect or the consent was withdrawn after the driver's licence was issued. It would be fair to say that extra protections are required, and I am pleased that the Scrutiny of Legislation Committee has dealt with this matter in Alert Digest No. 10. The committee stated—

"Given the considerable legal significance which the Bill will confer on the driver's licence 'donor consent' notation, the committee thinks it essential that licence holders be provided with an express power to require the amendment of this notation on their licence card, either because it is incorrect or because they have changed their mind on the matter since the licence was issued."

The committee pointed out that at the moment the Traffic Regulation deals only with changes to licence details concerning changes of name or address. Obviously, as the committee suggested, there will be a need for the Traffic Regulation to be changed, if this Bill is passed, to

allow drivers' licence holders the right to require alteration of the "donor consent" notation.

The committee also sensibly recommended that the Traffic Regulation and administrative practices be reviewed to ensure that applicants for drivers' licences are adequately informed of the implications of their decision concerning organ donation. Insofar as some drivers' licences are issued for up to a decade, I believe the committee's suggested consequential reforms are essential.

I wish also to state that this Bill in no way makes it compulsory for a person to make a notation one way or the other. All that this Bill does is provide that, when people indicate voluntarily that they want to donate their organs or tissue on death, this wish is given proper effect. My colleague the member for Maroochydore has pointed out that this Bill does need some finetuning, and I think that, having regard to the comments of the Scrutiny of Legislation Committee, that point is very well taken. She has also said that it would be a tragedy if this Bill were voted down by the Government and this issue forgotten or sidelined. Earlier I was pleased to receive the assurance of the Minister that the Government will be supporting this amendment.

My colleague the member for Maroochydore has made the sensible and far-sighted suggestion of referring this Bill to a parliamentary committee to investigate Queensland's low organ donation rate so that this parliamentary body can look at the Bill and make recommendations about it as well as the whole issue of improving our organ donation situation. There are many matters that such a committee could consider in the process of reviewing this Bill. For example, it could look at the experience of Victoria's Organ Donation Registry, on which people consenting to be donors can place their names. In January this year, figures were released indicating that 75,000 Victorians had signed up since the registry was established four years ago.

The member for Thuringowa, in fact, suggested when introducing this Bill that there was a need for a Queensland database. It is true that this is critical because it does not take much time to appreciate that it would be impossible in many cases for a hospital to know whether a deceased person had indicated on their driver's licence whether they wanted to donate their organs or not. Privacy concerns with the disclosure of Traffic Act information work against an ability to access the database of the Department of Transport.

I was also surprised to learn that a Victorian Government investigation has found that there is a correlation between the shortage of intensive care unit beds and a low organ donation rate. Having regard to the fact that it is essential to keep a brain dead organ donor on life support equipment in an intensive care ward, a lack of such facilities could undo whatever legislation this

Parliament seeks to pass and make any database truly irrelevant.

Finally, there is the most promising initiative of all, and that is the South Australian Organ Donation Agency, which was formed in 1996 with the agreement of the Australian Health Ministers Conference. This entailed no change in legislation or, indeed, in community attitudes. What it required, however, was State funding to establish the agency and the appointment of medical donor coordinators in each intensive care unit. This has resulted in a marked heightened awareness of organ donations within ICUs and an increase in the South Australian rate from 14% in 1997 to 23% in 1998—a truly remarkable improvement, I am sure all members in this place would agree.

It is no coincidence that the South Australian reforms are based on the model used in Spain, where organ donations went from one of the lowest in Europe to the highest. Under this model, medical doctor coordinators identify potential organ donors within their hospital in liaison with the transplant coordinators, who speak with families about their knowledge of the deceased's wishes regarding organ donation. I emphasise this because it highlights the central role given to the family in this most sensitive matter.

My friend and colleague the member for Maroochydore has indicated that there is the concern that under this Bill there is the possibility that the family could be cut out of the process of consent or prior notification. As I mentioned, the South Australian and Spanish models do not cut the family out in any way and, yet, have the most successful organ donor rate in Australia and Europe respectively. So there is much to be learnt from this experience, and I urge the committee to inquire further into such experience.

It also needs to be emphasised that there is enormous community goodwill towards organ donation. Research conducted in 1995 highlighted that 90% of the Australian population supported organ donation in principle, with around 50% discussing this issue with their family at some time. Interestingly, some 26% of the population had decided that they definitely wanted to be a donor, with an equal proportion having told their family that they wanted to be a donor, and with only 9% telling their family that they did not. The survey also indicated that, if it is known by a family that one of their members wants to be an organ donor, 86% would abide by those wishes, whereas if the views of the deceased were not known, only 27% would agree to organ donation.

Once again, these figures highlight that there is a tremendous groundswell of public support, and it is a question of how this desire to do good can be channelled in the right direction. The passage of laws of itself will not achieve the results we want, and it is clear that a range of strategies have to be put in place. Clearly,

however, having a properly funded intensive care system in our major hospitals and an appropriate medical team in place is central to any sustainable result. This is a difficult area as it involves the juggling of human emotions with the need for the State to take proactive measures to save lives.

I congratulate the member for Thuringowa on this Bill. It is not a total panacea to this most important but difficult social issue, and I am sure that he would agree. However, the member by his initiative has given each and every one of us in this Chamber the opportunity to move forward to get some runs on the board for the people of Queensland. For that alone, the member for Thuringowa deserves a unanimous vote of thanks.

I believe that the Legal, Constitutional and Administrative Review Committee is the right body to look at this Bill, and I congratulate the honourable member for Maroochydore for, in fact, putting forward this initiative. I believe that that committee can do much good in terms of not just inquiring into this Bill but inquiring into the wider issue of improving the rate of organ donation. It would be a tragedy if we, as a Chamber and as people elected to represent the public good irrespective of party politics, could not see this as an opportunity to move forward and possibly to help save lives. I therefore support the amendment moved by the honourable member for Maroochydore, and I support the Bill as a whole.

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