



Speech by

**Liz Cunningham**

**MEMBER FOR GLADSTONE**

Hansard Tuesday, 31 October 2006

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## **HEALTH LEGISLATION AMENDMENT BILL**

**Mrs CUNNINGHAM** (Gladstone—Ind) (9.55 pm): I wish to speak to just three areas of this legislation. The first one is the minor definitional changes in relation to the restrictions imposed on smoking in certain places. At the outset I say that I support the smoking legislation—the prohibition of smoking legislation is probably more accurate—100 per cent. My dad died from smoking related diseases. In common with a lot of men of that generation, he started smoking when he joined the Army and was issued with cigarettes as a stress coping mechanism. He was never able to give it up subsequently. In fact, a gentleman passed away in my electorate not long ago. The federal government is giving his wife a hard time because it is claiming that his death is not related to cigarette smoking, yet he commenced smoking in the Army.

Having said that and having said I wholeheartedly support the legislation, there are a couple of consequences of this legislation that I wish to bring to the minister's attention. Whilst the results were probably intended, there are practical implications that I believe we as a parliament need to consider.

The first one and I think the most important one relates to a visit I made to the Royal Brisbane and Women's Hospital. Three months ago I had the very fortunate opportunity to visit one of my daughters who had a child. I was up there for all the right reasons. When I visited her on a number of occasions I found it distressing to see the number of what appeared to be quite ill people having a smoke outside on the footpath at the Royal Brisbane and Women's Hospital. We can stand in here and discuss the appropriateness or inappropriateness of cigarette smoking. However, when somebody is in hospital suffering from an illness, or is traumatised or has had an accident, it is probably not the ideal time to suggest that they give up smoking as they are probably stressed in other ways. Withdrawal from cigarette smoking is probably something they would find very difficult to cope with additionally.

There is also the argument about nicotine patches and chewing gum that people can take to alleviate their addiction to nicotine. I wonder whether there is a designated smoking area for patients within the hospital precinct that is separated from other patients. As I said, I do not support cigarette smoking. However, on the few occasions that I visited the hospital I saw people attached to drips—and they were not their partners—who had their head and neck heavily bandaged. So they had obviously suffered trauma to the head area. In one instance they were standing on the footpath in inclement weather. They were standing outside on the footpath, near the bus stop sign, having a cigarette. I am not sure that is appropriate to their healing process. As I said, we can stand here and talk about the pros and cons of cigarette smoking but I ask if the minister can look at providing a more appropriate place for them to have a cigarette if that is what they need to do.

The second instance that I wish to raise is probably a little less defensible but I will raise it anyway because of the passion of the community member who raised it with me. During the recent election campaign, we had a 'meet the candidates' meeting at Boyne Valley, which is one of the more remote parts of my electorate. Many Peaks is a town that 100 years ago was a very vibrant and active town. Indeed, the area was larger in population at that time than Gladstone's population because of the gold rush. There

were quite a number of buildings, including a number of hotels and churches, at Many Peaks. The number of hotels has now shrunk to one—the Many Peaks Hotel. Hophy, the publican who runs the hotel, was, to say the least, aerated about the new smoking laws because his clientele are heavy smokers almost without exception and he has his entire pub clientele sitting out the front. There is not too much out the front for them to sit on—they sit on the road reserve actually—while the bar is completely empty. Hophy had had a good night when we had our ‘meet the candidates’ meeting and he was vocal to say the least.

**Mr Pitt:** Had the odd shandy?

**Mrs CUNNINGHAM:** Or 10—and he was emphatic in his comments in relation to what impact the designated smoking areas had had on his patronage. The only reason I raise this is that we know in this legislature that one size does not fit all in Queensland. Again, I reiterate that I do not support smoking. I think it is a very intrusive habit not only for the smoker but also for those ill-fated enough to be around smokers and who have to put up with the pall of smoke. He was very vocal in expressing the impact of the legislation and I thought that that was important to mention.

**Mr Robertson:** You cannot be half-pregnant.

**Mrs CUNNINGHAM:** I agree, but his point was that his entire clientele was sitting out on the front veranda and on the road reserve because they were not allowed inside. No-one was inside. I raise it because he was very vocal and concerned about it. I have to say that I am probably more concerned about the Royal Brisbane and Women’s Hospital scenario where people are inappropriately receiving medical attention on the footpaths.

The second comment that I wish to make is in relation to the area of need. The bill introduces new guidelines for determining areas of need, and this is as a result of work done by the task force. I have written to the current Minister for Health about a particular issue in my electorate. All of those small communities in my electorate that have no medical facilities at all—all but the city of Gladstone—have been designated areas of need: Yarwun, Targinnie, Boyne Valley, Ubobo, Many Peaks, Nagoorin, parts of Mount Larcom and Bracewell. I do not believe that any private practitioner would set up in those communities because they are so small. Some of them are continuing to diminish; others are growing.

I have had one particular doctor come to me to talk about servicing those areas of need but establishing doctor services in Gladstone. To date, he has been unsuccessful in being able to reach some sort of agreement with the department of health. That is partly a state issue but a lot of it is a federal issue as well, and I do acknowledge that. It may be that this bill will address some of those concerns. I would put that to the minister. Where a designated area of need is declared, it may be that the services are best provided in a more central location, particularly when the distance travelled is minimal and where those community members go to those central locations to shop anyway. A number of those communities that I have cited do not have shopping facilities at all. One or two like Ubobo have a small store but the rest do not, and people commute into Gladstone, Calliope or Boyne Tannum to get the necessities of life.

The third and final issue I wish to raise is the mental health issue in the legislation. It is proposed that a new part be inserted into the act which sets out various procedures following the end of lawful custody without charge. The Scrutiny of Legislation Committee—and I value its *Alert Digest*; I do not always refer to it but I do value the insights that the Scrutiny of Legislation Committee provides—in its summary states—

The committee notes that cl. 121 of the bill extends the assessment processes of the *Mental Health Act 2000* to persons who are in lawful custody, or lawfully detained, without charge under a prescribed Act of the State or Commonwealth.

Whilst neither the Minister’s Speech nor the Explanatory Notes provide any indication of the categories of persons in contemplation, the committee assumes they might include persons held in immigration detention centres.

This extension of the assessment provisions of the *Mental Health Act* does not appear to the committee to be objectionable.

Could the minister clarify whether the committee’s assumption is right and that the Mental Health Act amendments will include persons held in immigration detention centres? Further, the *Alert Digest* states—

The committee notes that under proposed s.21B of the *Transplantation and Anatomy Act 1979* ... the consent required for removal of particular tissue from an adult person’s body for research purposes is to be as stipulated in an external document, the National Statement on Ethical Conduct in Research Involving Humans.

When I was on the Scrutiny of Legislation Committee one of the repeated concerns was the complexity that is involved in our legislation where a reader of the legislation does not get the full picture of the implications, intent and the overarching obligations when external legislation is used unless it is footnoted in the legislation. People just do not have the opportunity and often they do not have the resources to go and find these other documents. The *Alert Digest* continues—

The committee seeks information from the Minister as to whether consideration was given to incorporating the relevant consent requirements in the bill itself rather than by incorporating, by reference, an ambulatory external document.

I look forward to the minister’s response and clarification on those matters.