



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 20 August 2009

CORONERS AND OTHER ACTS AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (3.46 pm), in reply: I would like to begin my comments by thanking all members of the House who contributed to the debate this afternoon on this very important amendment to the Coroners Act. Madam Deputy Speaker O'Neill, I, too, at the outset would like to acknowledge the presence of your mother in the gallery. What a proud day it must be for her to see her daughter presiding over the Legislative Assembly of Queensland, although perhaps only in a temporary capacity. Nevertheless, it is an exciting time for your family today.

When the Coroners Act came into force it replaced an act that had been in place for about 50 years. That was commented upon by the member for Keppel, who had been appointed as an acting coroner at one stage under the old 1958 act. The changes it brought to Queensland's coronial regime were significant. The 2003 act brought Queensland into line with modern concepts of coronership. It brought a new focus on death prevention and increased recognition of the needs of families and loved ones in the coronial process. Ultimately, the aim of the new regime is to help prevent avoidable deaths by finding the truth of what has happened and, where appropriate, making recommendations for systemic change.

Regularly we see evidence in the daily media headlines of the coronial regime and our new coronial system in Queensland at work. The coroner's recommendations can often be inconvenient or uncomfortable for government, but that is the strength of the reforms that we have put in place and that we are committed to maintaining. That is set out in the 2003 act and also in the amendments before the House today.

Practical experience with the act has shown that the reforms of 2003 are working well. However, as with all new legislation, there is always room for finetuning, and that is the purpose of this bill. As I said in my second reading speech, this bill does not change the fundamental philosophy underpinning the existing coronial regime. Its purpose is to clarify ambiguities in the act and to improve efficiency.

I will now address some of the matters raised by members in the course of this debate. The member for Southern Downs made a very serious allegation, in my view, that ministerial staff were interfering with documentation concerning child death case reviews. I am not aware of any such allegation being publicly made, other than what was said in the speech of the Deputy Leader of the Opposition, the member for Southern Downs, but I would encourage him and any other member to refer any evidence they may have relevant to allegations of official misconduct to the CMC accordingly.

The member for Southern Downs also raised the issue of a police helicopter. These are issues best addressed by my cabinet colleague the Minister for Police, Corrective Services and Emergency Services, but what I can say is this: not only do the Nationals want to tell police where to put officers—something that politicians have no expertise in—they are also dictating to police what aircraft should be prioritised for current operational policing needs. The LNP made a commitment during the election campaign to provide two new helicopters but of course did not ask the Queensland Police Service if it met their needs or current requirements. The Police Commissioner has made it clear that his current intent is to expand the existing QPS fixed-wing capability. For a state as big, as wide and as large as Queensland, we need an Air Wing

capability that is based on fixed wings. That is why Labor is delivering a new police plane for the Torres Strait.

The member for Southern Downs also raised some concern that the previous proposal by Commissioner Davies with respect to health care related deaths was not being adopted. I note that on 12 March 2008 the former Attorney-General outlined to the parliament the reason the government was not adopting the Davies report proposal for a new category of reportable deaths which would capture 'all deaths within 30 days of an elective health procedure'. In particular, this approach would have meant that a significant number of deaths that do not require coronial scrutiny would nevertheless have to be reported to the coroner. In the government's view this, amongst other things, would have caused unnecessary distress to the families of those deceased persons.

The proposed amendment to section 8(3)(d) is a precise and targeted approach to the capture of medical and other health care related deaths. It addresses the problems and gaps in the current section 8(3)(d) identified in the Davies report and other issues about interpretation and coverage of the current section raised by the State Coroner. The new health care related death category will provide clear guidance for healthcare professionals as to what deaths must be reported and target only the types of deaths that require coronial scrutiny. In particular, the amendments address the issue raised in the Davies report as to whose expectation is relevant in determining whether a death was reasonably expected and to what standard the outcome must have been unreasonable.

The Davies report also commented that any reforms need to be 'broad enough and robust enough to capture all cases of medical errors, neglect and misconduct leading to death by health service practitioners'. This has been addressed by introducing a new category of health care related deaths where 'health care' is broadly defined so that it captures a range of deaths that are not hospital or surgery related. The new definition also captures situations where there was a failure to provide health care. This closes a gap in the existing provision and ensures that reporting obligations cannot be avoided because when health care was sought no treatment or care was provided.

The member for Mudgeeraba asked whether there would be a time limit for the reporting of a death. What new section 10AA requires is a nexus between the relevant health care and the death. The reference to a death at any time is qualified by the rest of the definition. A death will only be caught if the healthcare provider either 'caused or is likely to have caused the death; or contributed to or is likely to have contributed to the death' or if health care was sought and the health care or a particular form of health care failed to be provided, the failure either 'caused or is likely to have caused the death; or contributed or is likely to have contributed to the death'.

The member for Gaven questioned why a dedicated medical officer or expert advice panel were not provided to the Coroner's office in accordance with what Commissioner Davies recommended. I would note for the member's information that the coroner does have access to expert medical opinions and advice during investigations. This is most often on the advice of the Clinical Forensic Medical Unit in Queensland Health, the Australian Medical Association and the experience of the coronial officers themselves. Queensland Health's Clinical Forensic Medical Unit also provides a dedicated medical officer who liaises on a daily basis with the Office of the State Coroner regarding medical deaths coming to the coronial system's attention.

The member for Gaven also raised the issue of the Ombudsman report, calling for a mechanism to monitor progress of coronial recommendations. As this House is aware, the government has previously announced that it has introduced an administrative process for monitoring public sector responses to coronial recommendations. This report will be released soon.

In conclusion, I would again like to thank all honourable members for their contributions to this debate, particularly government members in the parliament. I would like to also thank the officers from the department who have worked assiduously on this bill—notably, Sharon Sergeant, Ainslie Kierkegaard and Leanne Robertson—and Mark Biddulph from my office. I commend this bill to the House.