



Speech by

**Andrew Cripps**

**MEMBER FOR HINCHINBROOK**

Hansard Thursday, 20 August 2009

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## **CORONERS AND OTHER ACTS AMENDMENT BILL**

**Mr CRIPPS** (Hinchinbrook—LNP) (3.06 pm): I rise to make a contribution to the debate on the Coroners and Other Acts Amendment Bill. The main objective of the bill is to amend the Coroners Act 2003 to make changes to the coronial regime. The bill makes a coronial related amendment to the Births, Deaths and Marriages Registration Act 2003 and consequential amendments to the Cremations Act 2003. The explanatory notes accompanying the bill indicate that the proposed amendments are primarily for the purpose of clarification or are procedural or technical in nature and do not involve a shift in the fundamental policy underpinning the legislation.

In particular, the bill includes amendments to clarify the scope and operation of the categories of reportable deaths, including amendments to address one of the coronial issues raised in the report of the Queensland Public Hospitals Commission of Inquiry—the Davies inquiry—which was tabled on 30 November 2005. This amendment relates to the provision requiring the reporting of deaths that are not reasonably expected to be the outcome of a health procedure.

While the explanatory notes state that the Davies inquiry did not make a recommendation for an amendment relating to this specific provision, it did identify ambiguities in its language which could contribute to underreporting of health care related deaths. In addition, the State Coroner has raised issues regarding the language and interpretation of this provision. The bill contains amendments to address these concerns by requiring the reporting of health care related deaths, replacing the current provisions that provide for the reporting of deaths that were not reasonably expected to be the outcome of a health procedure. The amendments insert a definition of a health care related death.

Other amendments include amendment of the definition of 'death in care' in relation to children in care to ensure it applies to all out-of-home placements; amendment of the 'death in custody' definition to cover deaths in detention under all state and Commonwealth legislation; establishment of a new category of reportable death—that is, the death happened in the course of or as a result of police operations, which must be reported to the State Coroner or the deputy State Coroner; implementation of a model 'aid to coroner' provision agreed to by the Standing Committee of Attorneys-General to facilitate cross-jurisdictional assistance; provision for review of decisions as to whether a death is reportable and clarification of the coroner's powers in the preliminary investigation to determine whether a death is a reportable death; amendments to clarify and improve investigation and pre-inquest conference processes and to facilitate the reopening of investigations and inquests; and, finally, amendments to facilitate access to investigation documents by genuine researchers.

As indicated by the shadow Attorney-General, the member for Southern Downs, these amendments are supported by the LNP. Indeed, I particularly welcome the move by the government to implement matters that were raised in the report by Commissioner Davies. In my contribution this afternoon I would like to focus on that particular issue.

The record of this government regarding the implementation of specific recommendations contained in the Davies report has been average, to say the least. In this regard the LNP opposition has even tried to assist the government. In July 2007 the Leader of the Opposition, the member for Surfers Paradise, who

was then the shadow health minister, introduced into the Queensland parliament the Coroners and Births, Deaths and Marriages Registration Amendment Bill 2007. The provisions of that bill are not unrelated to the provisions of the bill before the House insofar as they deal specifically with the reporting of deaths.

The objectives of that bill were to amend the Coroners Act 2003 and the Births, Deaths and Marriages Registration Act 2003 to implement the recommendations made in the Queensland Public Hospitals Commission of Inquiry report—the Davies report. The Davies inquiry was completed in November 2005. Specifically, the bill proposed to implement the recommendations contained in chapter 7 of the report, which proposed to amend the act to provide for a death occurring within 30 days of an elective health procedure to be a reportable death to the coroner. The proposed amendments would also have inserted a definition of 'elective health procedure' as a health procedure that can be delayed for a period of 24 hours without death being a likely outcome.

The amendments in the bill put forward by the member for Surfers Paradise would have also inserted provisions into the act to provide, in the event of a death happening within 30 days of an elective health procedure, that the health practitioner in charge of the procedure would be obliged to provide to the coroner his or her opinion as to the cause of death and that all deaths otherwise occurring in public hospitals would be certified by the health practitioners responsible for the care of the deceased persons. The bill proposed to faithfully implement the recommendations contained in the Queensland Public Hospitals Commission of Inquiry report. Regrettably, the government voted against the bill for base political purposes and the bill failed.

Important recommendations made by Commissioner Davies were actively prevented from being implemented by the government. Indeed, we saw at that time a quite extraordinary contribution from the then Attorney-General, the member for Toowoomba North. In respect of the amendments proposed by the member for Surfers Paradise, which were taken directly from the recommendations of the Davies inquiry, the then Attorney-General stated—

The government considers that a Davies style automatic reporting requirement, whereby every death within 30 days of an elective health procedure has to be reported to a coroner, will be costly and problematic. This is because any prescribed time frame is arbitrary.

I think it was appalling during that debate that the then Attorney-General described Commissioner Davies's recommendations on these matters to be arbitrary and too costly. At that time I was alarmed that the government could be so casual about dismissing the recommendations of the report of the Queensland Public Hospitals Commission of Inquiry, which was a watershed inquiry in Queensland. I thought it was disrespectful to tell Commissioner Davies that the government believed his recommendations to be too costly and arbitrary to implement. At the time, the only conclusion that you could draw was that the government had learned nothing from the health crisis.

In respect of reforms concerning the reporting of deaths, the amendments in this bill indicate that the government opposed the private members's bill introduced by the member for Surfers Paradise for base political purposes. It is plausible to suggest that the amendments contained in this bill, establishing that a health care related death includes the death of a person at any time after health care was sought or a particular type of health care was not provided, encompass the recommendation made by Commissioner Davies. So we now know that the government does not really believe—thankfully—that the recommendations of Commissioner Davies were arbitrary and too costly, but at the time it was just playing politics.

As I have pointed out previously in this place, even where the government has moved sluggishly to implement a range of matters recommended by the Davies report it has failed to implement them faithfully. In March 2007 this parliament passed the Whistleblowers (Disclosure to Member of Parliament) Amendment Bill. The recommendations contained in that bill had originally been proposed following a review by the Public Service Commissioner and they were supported by Commissioner Davies. The recommendations included central oversight of public interest disclosures, an increased class of persons who may make a public interest disclosure and an expansion of bodies to which a complaint may be made. Those recommendations were subsequently supported by the Parliamentary Crime and Misconduct Committee and the Queensland Ombudsman. Despite widespread consensus on those recommendations, they were absent from the government's Whistleblowers (Disclosure to Member of Parliament) Amendment Bill.

What is even more damning is that the LNP opposition had tried previously to give effect in their entirety to the relevant recommendations of the Queensland Public Hospitals Commission of Inquiry by introducing the Whistleblowers Protection Amendment Bill 2006. But the government voted it down—again for political reasons. So this government has some form in terms of putting politics ahead of delivering the best possible outcome for Queenslanders.

It is extraordinary that, after all its rhetoric in relation to its efforts to reform the health system, the government has not completed the implementation of the recommendations of the Davies report, almost

four years later. That the government is not making the changes required is clearly and unequivocally demonstrated by the fact that it has not implemented the recommendations of the Public Hospitals Commission of Inquiry, despite the fact that in December 2005 the then Premier, Peter Beattie, welcomed it in glowing terms and with open arms.

The Davies inquiry arose out of complaints relating to the very serious problems that plagued Bundaberg Base Hospital. The exposure of those problems by a brave whistleblower and the LNP opposition led to the uncovering of a much wider culture of secrecy and mediocrity in the Queensland health system presided over by the government. This bill is a small step in the right direction. The recommendations of the Davies inquiry should be a road map for the government, but it seems content to take only small steps from time to time to achieve the real reform that is needed to address these very serious matters.