



Speech by

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MEMBER FOR MUDGEERABA

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Mrs REILLY (Mudgeeraba—ALP) (3.17 p.m.): I am pleased to rise in support of the Justice and Other Legislation Amendment Bill 2003. As other members have made note of, the main objective of this bill is to amend a whole fleet of acts with minor and technical amendments that will enhance or improve those pieces of legislation and the mechanisms that go with them. One of those—and other members have spoken about this—is the Civil Liability Act 2003 which involves this now very well-known case that was before the High Court, *Cattanach v. Melchior*. That case involved a woman who underwent a sterilisation procedure which, for whatever reason, failed. The family was then able to seek costs from the medical practitioner who performed the operation for the costs of raising that child. As has been pointed out, it is a healthy child. We are looking to say that if the child were in some way disabled then the costs of raising that child would be claimable, but not the costs of raising a healthy child. However, the amendments we make do not restrict the ability of a parent to sue for the negligently performed sterilisation procedure.

I would like to bring the human factor into this discussion. Only last week I met up with a friend of mine whom I had not seen for a few months. This particular friend of mine is in her early to mid-thirties. She has three healthy children, all of whom were born by caesarean. The last such caesarean birth was 15 months ago. I remember that when this healthy child was born—I do not want to mention her name because I do not want to embarrass her and her family in the future—my friend made much of telling her girlfriends, 'That is it. We are not having any more. Three is a good number.' She is a stay-at-home mum. That is what she wants to do.

She told me that she had had a clamping procedure carried out. It was done, and she was satisfied that this was their last child. As she is a mother who has this overflow of maternal instinct—her decision in life is to stay at home and provide that nurturing, mothering role on a full-time basis—it was a very difficult decision for this very strong Christian family to make. When I saw her last week I was surprised to see her once again sewing maternity clothes. I thought she was making them for a friend of hers, only to be informed that she is four months pregnant. I was rightly stunned. My jaw hit the floor. I said, 'What happened there?'

She has had three caesars. Any parent who is familiar with that process knows that each caesar delivery becomes more and more dangerous and uncomfortable and a tenuous position to be in. The discussion was had, the decision was made and at the end of the third caesar the sterilisation procedure was done, right there and then. She then breastfed for 12 months and found that she was very ill for the next three or so months and could not work out why. Pregnancy was the last thing on her mind because, as far as she knew, everything in that area was tied up well and truly. She was sent by her GP for an ultrasound to see if they could find a bowel obstruction which they thought was causing her constant nausea and stomach pains. The radiologist said, 'I have found it.' It was not a bowel obstruction at all; it was a heartbeat. At this point she burst into tears, as you would if you were not expecting to be told and did not know that you were four months pregnant.

The shock that this family will now experience will wear off over a period of time. I think she has come to accept the situation she is in. The point is that for her the sterilisation procedure was a process relating to her own health and the health of any future children because of the difficulties she has experienced with each pregnancy and each birth. It was not a financial consideration. I think the last thing on my girlfriend's mind is suing her practitioner for the cost of raising that child, but she needs to

seriously consider that potentially the procedure was negligently carried out. Obviously it was a procedure that failed.

I think these amendments are very important. I just wanted to bring the human factor to this debate. We all know about the very well-publicised case. I do not think any of us was personally familiar with these people. We probably went through a whole range of emotions watching that court case play itself out. I would not like to say how I would consider my personal situation, but this family that had made the decision not to have any further children now has to undo that decision and find a way to cope with that situation. It is not the cost of raising that child that currently is on their minds first and foremost; it is the health of the mother, who now has to have a fourth caesar, and how they will be able to prevent any future occurrences.

This is a very important amendment. I am pleased to see us making it. The amendments to the other various acts are also very important. A number of them are of a technical nature. I am sure other members will speak to them with great competence. I commend the Attorney-General and his staff for all of the hard work they have put into getting all of these little bits and pieces together, because it is not easy to put this jigsaw together.