Speech By

Michael Berkman

MEMBER FOR MAIWAR

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TERMINATION OF PREGNANCY BILL

Mr BERKMAN (Maiwar—Grn) (4.10 pm): I rise to speak in absolute support of the Termination of Pregnancy Bill. The Greens have always supported bodily autonomy and choice for women. This reform reflects my long-held view that abortion should be safe, legal and free.

This has become a complex debate on what is undeniably a controversial issue but, at the same time, at its core there is an exceedingly simple proposition. Abortion is a fundamental element of reproductive health care. It cannot remain a crime. The complexity emerges when we as legislators seek to create a framework to replace the archaic and unconscionable criminal sanction against abortion. To do our job well, we must be guided by the evidence. In this regard, the QLRC is the best basis for legislation that we could hope for.

The debate becomes controversial because all too often religious interest groups or individuals fail to recognise that we are a secular society. As legislators, we must look past divisive moralising and base our decisions on evidence. The reality is that abortion happens in Queensland. It will continue to happen. We do not need to like that reality, but we simply cannot deny it. I doubt anyone here would suggest that abortion is inherently good or desirable. In an ideal world, every pregnancy would be planned, but that is not the world we live in and we cannot be content with circumstances where a person's decision about fundamental reproductive rights amounts to criminal conduct. It is not my place and it is not our place as legislators to tell women that we know best.

To say that this law reform is long overdue is an understatement. In recognising how long awaited it is, I want to acknowledge the many decades of work done by campaigners, advocates and clinicians to achieve this reform. These people were providing healthcare services right through the era of Joh's police state, when the criminalisation of abortion gave rise to very real risks to their safety and liberty. It is simply not possible to acknowledge all of those who have campaigned for abortion law reform in Queensland, but I must take a moment to acknowledge the work of Beryl Holmes. Beryl founded Children by Choice and has been campaigning for women's reproductive rights for nearly half a century. Beryl is a resident of Maiwar and it has been a genuine honour to meet with her in recent months, to hear the stories of her tireless efforts and, as her local member, to vote for this law reform.

I want to address some of the issues raised in the opposition committee members' statement of reservation, some of which are now reflected in the amendments circulated in your name, Mr Deputy Speaker McArdle. I believe that I have already addressed this, but the first issue raised in the statement of reservation questions whether there is a sound basis to remove abortion from the Criminal Code. In the interests of clarity, the criminalisation of abortion denies reality and denies the fundamental reproductive rights of pregnant people. Contrary to the assertions already made by members of the opposition in this debate, women routinely get abortions, particularly in the early stages of pregnancy, in circumstances that are not currently lawful. Whether or not abortion is accessible under current Queensland law, this should not be criminal.

The committee heard powerful evidence from mothers who had made the difficult decision to have abortions later in their term of pregnancy because of severe or fatal foetal abnormality. All too often the current law requires these women to justify the decision that they have made under the false pretence that their mental health is at risk. The committee heard a firsthand account of this.

The member for Toowoomba South and the Deputy Leader of the Opposition have both suggested that the law need not change, because all abortions in Queensland are conducted lawfully. I honestly do not know how anyone can claim with a straight face that each of the more than 10,000 abortions performed in Queensland each year is necessary to protect the physical or mental wellbeing of the mother. It is certainly the case that abortion providers have developed systems of patient sign-off and justification to protect themselves and their patients from charges under the existing law. It is naive to think that abortion on request is not happening, but that 1899 law requires everyone involved to maintain the farce that it is not.

The criminalisation of abortion has much more far-reaching negative consequences than just the need for additional paperwork or process. It is also clear that a number of facilities and clinicians decide not to provide termination services at any stage of pregnancy because of its criminality. The committee had the privilege of speaking directly with the Victorian Public Service and experts about their experience following the decriminalisation of abortion in 2008. It is clear that the rates of abortion among Victorian women have dropped significantly. There has been a reduction of more than 25 per cent from 2008 levels. It may seem counterintuitive, but this evidence should guide every member who wants to see a decrease in the incidence of abortion in Queensland. Better reproductive health care will lead to fewer women seeking abortion and decriminalisation is the way to achieve that.

Antichoice groups lament the apparent increase in the number of later term abortions performed in Victoria since decriminalisation 10 years ago, but they routinely ignore the fact that women regularly have to travel interstate to access superior health care, simply because it is not available in their home state. At one clinic alone—the Maroondah clinic in Victoria—clinicians estimate that about one woman from Queensland attends the clinic for a termination each fortnight. Nobody should have to travel interstate to access health care.

The second issue raised in the statement of reservation relates to the bill's gestational limit of 22 weeks, after which two doctors need to sign off on the termination. Again, we see proposed amendments without any sensible evidence base to lower this figure to 16 weeks. The QLRC's rationale for choosing the 22-week limit is clear and draws on all the available evidence about the point at which a foetus might survive outside the womb.

Another critically important factor in this limit is the timing of morphology scans, which others have mentioned, of around 20 weeks, which any parent will remember well. For too many expectant parents, that is when they receive devastating news. Serious medical complications and potentially fatal foetal abnormalities are generally not detected until this point. The 22-week limit is appropriately set to allow parents in those circumstances to work through excruciatingly tough decisions without the need to rush to avoid the additional barriers that exist after the 22-week limit. At that stage of pregnancy, the procedures are very serious and the decisions are time sensitive. With each passing day and week, the clinical procedures can become more complicated, more expensive and more difficult to access. The committee heard evidence directly from mothers who felt rushed in making this heartbreaking decision. It is clear that lowering the gestational limit would only exacerbate this.

The statement of reservation takes issue with the circumstances in which a medical practitioner, in consultation with a second practitioner, can lawfully perform a termination after 22 weeks gestation. The concerns are specifically that the bill does not define what it means for the second doctor to be consulted and that the factors that these doctors must consider are too broad. Taken together, these two concerns do not make much sense and each one is effectively the answer to the other. Clause 6(1) makes it absolutely clear that both the first and the second consulting medical practitioner must be able to form a considered view that, in all the circumstances, the termination should be performed. The consultation with the second doctor must be comprehensive enough that they give consideration to all the broad-ranging circumstances set out later in clause 6. These include all relevant medical circumstances; the woman's current and future physical, psychological and social circumstances; and the relevant professional standards and guidelines.

The mandatory considerations in that section are cumulative. That is, no one consideration can be taken in isolation and none of them can be ignored. That applies to both medical practitioners. These considerations are deliberately and appropriately framed in broad terms to reflect the breadth of circumstances that are relevant to abortion services and should be considered by medical practitioners.

Clause 6 read as a whole makes it abundantly clear that the second consultation cannot be a 'tick and flick', as some would insinuate. It is plainly offensive to any medical practitioner to suggest that their consideration of an abortion after 22 weeks will be cursory or dismissive of any of the circumstances.

The amendment proposed to remove the consideration of social circumstances, apparently modelled on antichoice rhetoric, is deeply disappointing. It buys into the completely false assertion that the decision to terminate can be based on purely social reasons. It cannot. This claim is entirely baseless if one makes any genuine attempt to read the wording of proposed section 6 of the bill.

If social circumstances were removed from the bill, on what basis might medical practitioners consider homelessness, domestic violence in the relationship or reproductive coercion? This shameless pandering to antichoice groups is ill considered and just muddies the waters as to what doctors can consider in the unique and often complex circumstances that surround each unwanted pregnancy. All the circumstances are relevant and women, in consultation with appropriate medical support, must be recognised as the best people to make decisions about their own lives, their bodies and their future.

Time constraints prevent me from addressing conscientious objection and mandatory referral for counselling at this point. I will hopefully address them in consideration in detail. Abortion clearly is a health issue. There is no rational basis for keeping it in the Criminal Code. Opponents of the bill will have every right to make the choices best for them when it comes to their own health care, as they should. A society that respects women is one where all options are freely available in pregnancy and where none of them are criminalised, stigmatised or put out of reach by unnecessary barriers.

In closing I thank my fellow committee members and in particular the secretariat for their tireless efforts behind the scenes. Most sincere thanks go to those who gave evidence at all three committee hearings and particularly those who shared their deeply personal experiences.