




Speech By
Hon. Dr Steven Miles
MEMBER FOR MURRUMBA

Record of Proceedings, 17 October 2018

TERMINATION OF PREGNANCY BILL

 **Hon. SJ MILES** (Murrumba—ALP) (Minister for Health and Minister for Ambulance Services) (4.49 pm), in reply: I would like to thank all members for their contributions to the debate on the Termination of Pregnancy Bill. Before I reflect on the debate, allow me to read a response from the Attorney-General to questions raised by the member for Maroochydore. It states—

- Informed consent is required for all medical treatments, including terminations.
 - The general laws about consent to medical treatment, including consent of minors and persons with impaired consent, will continue to apply under the Bill.
 - That is, minors must have the capacity to give informed consent.
 - A child is capable of giving informed consent when the child achieves a sufficient understanding and intelligence to enable the child to understand fully what is proposed. This is also described as having 'sufficient intelligence and maturity to understand the nature and consequences' of the proposed medical treatment.
 - These issues are dealt with on a daily basis in clinical practice. There is no need to include specific provisions around consent in the Bill.
 - Any child who does not have capacity to consent to medical treatment, cannot give valid consent.
 - For a termination in those scenarios, the parent cannot give consent.
 - Only the Supreme Court, in its *parens patriae* jurisdiction, may authorise the termination. The Supreme Court, in making that decision, must act in the best interests of the pregnant child.
 - The Criminal Code contains a range of serious offences that protect children under the age of 16 from sexual abuse and cruelty. Other offences protect any person against sexual violence, assault and rape. If a child is in immediate danger or a person suspects a crime has occurred, the police should always be contacted.
 - Child protection laws also contain mandatory reporting requirements for doctors and certain other professionals.
- ...
- Termination is also a special health care matter under the *Guardianship and Administration Act 2000*
 - It is not a matter that a substitute decision-maker for the woman can give consent to. An application must be made to QCAT.
 - The Bill amends the Guardianship and Administration Act to provide that QCAT may consent to the termination only if satisfied a medical practitioner may perform the termination under the Bill.

Returning to the summary of the debate, this bill will recognise that termination is a health matter that does not belong in the Criminal Code. Women, their families and health practitioners should not be put under the strain of navigating the legal system when making a healthcare decision. In the course of this debate we have heard claims that the rate of late-term terminations will increase under this legislation. We have heard claims that women will carelessly abort healthy, late-term babies without a second thought. I do not believe any woman sees a late-term termination as a casual event to undergo without a moment's thought, but obviously plenty of those who spoke in this debate do. I welcome those members putting their thoughts about women on the record. If they think women cannot be trusted, that they do not know what is good for them, that they would seek late-term terminations for no reason,

there is very little I can do about those members' views. They have bigger problems than I can address here. What does concern me is the number of—

Opposition members interjected.

Mr DEPUTY SPEAKER (Mr Stewart): Order! Members, order.

Dr MILES: What does concern me is the number of members who made outrageously contradictory statements to avoid admitting that today they will make a choice to limit women's rights in Queensland. At least 12 members stood up during the debate and said, 'I support removing abortion from the Criminal Code. I believe termination of pregnancy is a health issue for a woman and her doctor, but I will not vote for this bill.' They should have saved their breath. When asked, 'Should women be treated with respect and dignity under Queensland law?', history will record that they voted no. They cannot have it both ways even though they have tried desperately to. The member for Nanango said—

Terminations supervised by doctors and carried out for medical reasons are entirely legal in Queensland.

She then went on to say—

There are other aspects of the current framework that could be reviewed, including amending the Criminal Code to explicitly protect medically supervised abortions for medical reasons.

Why would we do that if there is no problem to address? On the subject of the gestational limit, the member for Mudgeeraba said—

Women who have had a termination of pregnancy say it is not the easy way out. It is a painful and difficult decision made in consideration of what is the right thing to do for the mother and the child.

However, she went on to say—

... I am unable to support the bill as it seeks to allow 'on demand' or 'on request' termination of pregnancy ...

You either believe that women do not take the decision lightly, or you think they will do it on a whim. You cannot say both. The member for Nicklin, who was on the committee, said—

I am not here to second-guess the difficult decisions that families make in those ... situations.

However, he went on to say—

I am not comfortable with 22 weeks. In fact, I am not comfortable with the day before that or the day before that or the day before that ...

The member is very much second-guessing women's difficult decisions not based on the circumstances but based on the gestational limit.

Honourable members interjected.

Mr DEPUTY SPEAKER: Order, members.

Dr MILES: The member for Buderim said—

... in my view the current legislation governing the termination of pregnancy in Queensland requires reform.

However, he will not vote for this bill. The member for Bonney said—

I am in favour of abortion reform in Queensland.

...

I believe that the framework around terminations needs change. I believe the abortion should be a woman's choice up until a certain defined point and, after that, only in specific medical circumstances on the advice of doctors.

However, he will not vote for it despite summing-up exactly what this bill does. The member for Toowoomba South said—

No-one in this House would hold the view that a woman should run the risk of going to jail for having an abortion ...

However, he will not vote for this bill even though it would ensure precisely that. The member for Moggill said—

I accept that terminations occur in Queensland and that terminations need to occur safely and be accessible in Queensland. I also have to say that I am not against reform, including decriminalisation.

However, he will not vote for this bill. The member for Pumicestone said—

... I support the provision of this bill that seeks to decriminalise the termination of pregnancy.

However, she will not vote for this bill—and on and on and on it went. Members said they wanted change but would not vote for it.

I want to acknowledge the members of the LNP who have said they will support decriminalisation and will vote to do so. I also want to single out the government members who I know have grappled with this bill and I thank them for the honest way with which they have engaged in the discussion on it.

This bill contains a sensible framework to ensure terminations performed after 22 weeks gestation are appropriate in all of the circumstances. Terminations after 22 weeks require two medical practitioners to agree that the termination should be performed. The QLRC recommended a single broadly expressed ground be adopted in the bill reflecting the complex and individualised circumstances that may arise. In deciding whether a termination should be performed after 22 weeks, the medical practitioners must consider all of the relevant medical circumstances; the woman's current and future physical, psychological and social circumstances; and the professional standards and guidelines that apply in relation to the performance of termination. There are already robust systems in place to deal with situations in which these very difficult decisions must be made. This will continue if the bill is enacted.