




Speech By
Linus Power

MEMBER FOR LOGAN

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr POWER** (Logan—ALP) (2.37 pm): Mr Deputy Speaker Krause, I do not have to tell you, or perhaps anyone in this place, that sometimes speeches do not really stir our emotions or are not even that interesting. This is not a reflection on the member for Southern Downs! On 30 August last year I heard a speech in this place from the member for Lockyer that had an electrifying start—

Today would have been Sophie Milosevic's eighth birthday. Today Sarah and Peter Milosevic have baked a chocolate mud cake and Sophie's family will blow out the candles in her absence.

I could not help but be moved. I read more about the case. I spoke with the member for Lockyer and I passed on my condolences in passing to Sarah and Peter on that day. I could not help but admire their quiet dignity and determination to bring from this tragedy meaning and justice for others. As humans, one of the most important things we do is remember the fragility and beauty of human existence. The Milosevics have, through their tenacity, reminded us of how their love remembers Sophie. I did not know until today when I met him upstairs, but Ian Rickuss first took information from the Milosevics on their case and took it to Jim. I especially recognise the member for Lockyer, who has worked with successive attorneys-general to see this legislation put forward. In his speech he also said—

I am heartened to hear the Premier's answer today ... that, 'We will listen and we will work to solutions,' and I understand the Attorney-General has signed off a brief to go to cabinet.

I understand that for some in opposition it can be a tough road and that politics and conflict contrived for the cameras can sometimes overshadow genuine answers for people in need, but this is an example of where we saw an MP and ministers—from opposite sides of the House—moved by circumstances and legal failures, work to find solutions rather than to accentuate division or create conflict. Sophie deserved no less. In recognising the member for Lockyer, Jim McDonald, I also recognise the Premier and the attorneys-general—the member for Redcliffe and the member for Waterford—who worked together collectively and constructively.

We recognise that no new law should, through unintended consequences, undermine other laws or the intent of this House, and there were some submissions that had concerns about that. It is the intent of this amendment to recognise that the loss of an unborn baby through a criminal act makes that criminal act so much more profound than the already profound damage that might have occurred to the mother. Legal principles and precedents only recognise the legal existence of the baby when the baby has 'completely proceeded to a living state from its mother', a legal position known as born alive. Even restating these cold, legal words shows how the law can fail to capture the profound nature of trauma suffered. It fails to understand that the expectant couple have dreams, expectations and even love of their unborn child.

That is why we recognise the work of the department, the committee and the minister to see this law put in place that attempts to right this hole in our legislation without unintended consequences that affect other laws. That is why the structure here is that there will be an amendment to the Penalties and Sentences Act and the Youth Justice Act to make sure that the profound loss that the mother and couple

suffer with the death of their baby is recognised by the court after conviction in sentencing. This shall apply when there is a conviction for murder, manslaughter, grievous bodily harm, wounding, dangerous operation of a vehicle, assault occasioning bodily harm and careless driving.

Again, even with this important change, we recognise that nothing brings back the lost baby to the grieving family. However, as we heard in Sarah and Peter Milosevic's submission, the law's failure as it stands adds another layer of grief and that while this law reform does not bring your baby back at least you know that your baby counted. Importantly, there are also changes to the Criminal Code to clarify and enable the name, if one is chosen, of the unborn child or a description of the unborn child to be stated on the indictment for an offence that is alleged that has resulted in the death of an unborn child. Through this we recognise that, especially for the expectant couple, this child counted, it was loved and it was part of our community. To not do so is to profoundly disrespect the enormous pain suffered by couples such as the Milosevics and puts legalese above real justice—is wilfully blind to the real pain and suffering caused by those criminal actions—and well above the damage physically caused to the mother.

I read the submissions of the LAQ and the WLSQ and find them somewhat heartless in the face of such pain, but I also cannot see the reality of their legal claims. The Department of Justice and Attorney-General clearly refutes these assertions and the committee does well to document these carefully. These organisations should do more to recognise that our legal process is to find justice. For couples such as the Milosevics, there was a gap in our law that failed to recognise the enormous pain, suffering and loss that they suffered.

The Queensland Law Society in its submission is effectively attacking the judiciary when it states that, when considering this aggravating factor of a crime of violence by individuals, judges would then—and it has to be the judges because it is on sentencing—cause individual injustice. I reject that judges, when required to consider an aggravating factor on sentencing, would be, as the QLS goes on to allege, either arbitrary or unjust in their consideration of the circumstances of those aggravating factors. The logic of the QLS submission implies that judges would either be both arbitrary and unjust in consideration, and it is a disservice for the QLS to suggest this to the parliamentary committee.

There are a number of other important parts to this bill, but in my speech I want to emphasise my reflections on the changes to enhance justice for those where a violent act caused the death of an unborn child. It reflects some of the best in this House: an injustice shown to us by a tenacious and powerful couple—the Milosevics—and two local MPs, as I found out today, who wanted to see justice rather than political advantage and a ministerial team and Premier who were prepared to overcome complex legal challenges to enhance justice in Queensland. Some might see that as a criticism—that is, if ideas come from someone else or somewhere else to not take them on board—but I see it as a strength of this parliamentary team that we can do that.

I want to reflect on a Brecht poem where the refrain of a complex tragedy is described as 'For all that lives needs help from all the rest'. Brecht could well have said, 'All that lives needs love from all the rest'. Sarah and Peter truly loved their unborn child, Sophie. Their tenacity in seeing through this legal change here today is an expression of that love. As Sarah and Peter said, this law reform does not bring back our child, but at least we know our baby counted. I say to them: Sophie is counted and I hope that this piece of justice brings you a little peace and healing over the trauma you have suffered. I commend the bill to the House.