



Speech By


**Michael Berkman**

**MEMBER FOR MAIWAR**

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## **JUSTICE AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (6.30 pm): I rise to speak on the Justice and Other Legislation Amendment Bill. I begin, as just about every non-government member has, by making a few observations about the nature of the bill and the fact that it simply lumps far too many issues in one piece of legislation for us to be able to sensibly debate them. That does not appear to concern the government members, although the member for Nicklin came as close to critiquing as any government member has by calling them ‘miscellaneous’ amendments. It was almost appropriately pejorative but not quite there.

The bill amends over 30 different acts. The amendments range from minor clarifications to the Electoral Act and the Motor Accident Insurance Act right through to the introduction of a new aggravating factor in the Penalties and Sentences Act. It is important to note that it is not just the opposition and the crossbench that are taking issue with this. In their submission, the Queensland Law Society very sensibly flagged that these kinds of omnibus bills are not appropriate. They went one step further this time, citing the Legal Affairs and Community Safety Committee that reviewed a previous omnibus bill. A past iteration of the committee that undertook this inquiry commented that such bills—

Arguably may breach the fundamental legislative principle in section 4(2)(b) of the Legislative Standards Act 1992 because they fail to have sufficient regard to Parliament, forcing Members to vote to support or oppose a bill in its entirety when that ... bill may contain a number of significant unrelated amendments to existing Acts that would more appropriately have been presented in topic-specific stand-alone bills.

The QLS did not say that. I make the point again: a committee of this parliament made the observation that we could fall foul of the Legislative Standards Act. Nonetheless, the issue obviously becomes even more pronounced when we are also supposed to consider the entirety of the bill and proposed amendments, although mercifully fewer amendments than last week, I note. It is useful for that point to be brought up again. I think we should take every opportunity to remind the government of just how disgraceful their efforts were in the last sitting week. I digress.

We are likely to have only 30 minutes for the Attorney-General’s summing-up and consideration in detail so clearly we are not going to get through the vast majority of the bill. There will be no meaningful consideration of the vast majority of the bill in those 30 minutes or whatever time is left is after the Attorney has finished. I will use the time I have now to focus on some of the key issues that were raised in submissions to the bill.

The bill makes quite a lot of small administrative changes and the feedback from submitters is that those are largely positive changes. I do want to note specifically the clarification around section 319A of the Criminal Code Act. This clarification reinforces that anyone providing financial support to a pregnant person seeking a lawful termination is not committing a crime. This is a small but really important key clarification to ensure that the reproductive rights of pregnant people are protected.

It really takes only a moment's consideration to appreciate the countless circumstances in which a pregnant person could require financial assistance to exercise their reproductive rights. The cost of the termination of a pregnancy itself can be prohibitive. Public health care across pretty significant parts of this state simply does not provide access to abortion, which leaves lots of people—I note, especially, regional folks or people on visas—needing to pay for termination services. At best, I think we can observe that there are very confusing public pathways to accessing termination in Queensland at the moment.

The Greens have long held the view that cost should never be a barrier to exercising the full range of reproductive rights and that abortion should be free, safe and legal. Sure, we have dealt with the legalities, but for abortions to be safe we need to make sure that access is better across the state. Regional access is pretty terrible in large parts of the state. It also creates countless incidental costs for people seeking abortion, such as travel and accommodation costs. People may need to take time off work or access child care to access this simple healthcare service. The burden might be especially acute where a person could be facing reproductive coercion, that is, circumstances where they are facing potentially an immediate threat of harm for seeking an abortion. That is just another direct barrier that might be overcome only with direct financial support. Again, it is an excellent clarification in that amendment.

Part 9 of the bill removes the prohibition on identifying an adult defendant charged with a prescribed sexual offence prior to a committal hearing. This is undoubtedly a very important amendment that stems from the Women's Safety and Justice Taskforce recommendation in the *Hear her voice* report. The additional context for this recommendation is that the restriction on reporting is not afforded to other offences and it perpetuates the 'rape myth that women and girls often make false complaints of sexual assault', to quote the *Hear her voice* report. Being able to report the identities of persons accused of these crimes is particularly important in helping other victim-survivors feel safe in coming forward.

Before the commencement of this debate and following the attorney's second reading speech, I had a number of questions and concerns about the related recommendations and submissions to the committee regarding the development of media reporting guidelines to accompany the amendments. Obviously, I am relieved and I commend the Attorney for her efforts to consult on and develop those guidelines at this stage. QLS, DVConnect and Legal Aid Queensland all flagged this issue in their submissions. All of those submitters and the very report that spawned the amendment make clear that an accompanying media guide is really key to making sure that reporting does not result in the further spreading of harmful myths about sexual violence. I trust that all of the key stakeholders who contributed to the proceeding processes are afforded meaningful opportunities for input into the media reporting guidelines, which will ensure we ultimately have a complete trauma informed guide at the point of commencement.

The bill makes a number of very significant changes that use the term 'unborn child' and I want to touch on those briefly. The committee received submissions from DVConnect, the Women's Legal Service and Legal Aid Queensland that all raised concerns around the constant use of that term throughout the bill. The Women's Legal Service points out that the correct or more appropriate term would be 'fetus' or 'pregnancy'. As others have mentioned, DJAG made the observation that the bill preserves the born-alive rule. However, the Women's Legal Service was still at pains to make the case that there is no need to introduce the very emotive term 'unborn child' and that the use of that term in this legislation gently paves the way for arguments for 'fetal personhood'. We have made strides in our legislation around reproductive rights in Queensland in recent years. I quote the Women's Legal Service which stated—

It is disappointing to see the government take a step backwards on this issue.

Another key amendment in the bill is the creation of an aggravating factor for causing the destruction of a fetus in section 9 of the Penalties and Sentences Act. In their submission, Legal Aid Queensland points out that the courts are already required to have regard to the extent of injury in assessing the seriousness of an offence. By introducing a new aggravating factor we risk impeding the discretion of the sentencing court. As the QLS raised, the aggravating factor must be applied regardless of intent. This factor will equally apply when someone intentionally assaults a person and when someone is driving recklessly, resulting in the destruction of a fetus. The loss of any wanted pregnancy, especially in some of the kinds of circumstances we have heard about in this debate, is obviously tragic. However, we always need to exercise the utmost caution when we are considering any changes such as this one that will limit the exercise of discretion by our courts in issuing sentences.

As I have said, there are a lot of positive steps in this bill, but I will conclude by lamenting the inclusion of such disparate and significant amendments in one bill. We saw last sitting week the government ramming through its amendments to the child protection bill. It appears to be completely

unconcerned by this kind of trashing of the parliamentary process. Maybe we should not be surprised. I guess I still hope for more. We should have the opportunity to address some of the more significant amendments more thoroughly and specifically in consideration in detail. I have a strong suspicion that I will not get to that, again thanks to this wonderful institution known as the business program motion which gives up that grand total of 30 minutes for consideration in detail.