Speech By

Hon. Shannon Fentiman

MEMBER FOR WATERFORD

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CIVIL LIABILITY AND OTHER LEGISLATION AMENDMENT BILL

Hon. SM FENTIMAN (Waterford—ALP) (Minister for Employment and Small Business and Minister for Training and Skills Development) (5.21 pm): I rise to speak in support of the important reforms being made by the Civil Liability and Other Legislation Amendment Bill. As I do, I acknowledge the work of the Truth, Healing and Reconciliation Taskforce and the Historical Abuse Network. The Historical Abuse Network has, since the Forde inquiry, helped successive Queensland governments understand the changes we need to make to protect children from serious abuse.

As always, I applaud the courage it takes survivors to share their experience and their trauma. Without their courage to bring this abuse to light, none of what we are doing today would be possible. I also want to acknowledge the community of supporters and advocates around them who have joined the fight for justice. In particular, I acknowledge the work of Karen Walsh and Lotus Place. In my previous ministerial responsibilities I had the opportunity to work with survivors on issues raised by the royal commission. Even before being elected as the member for Waterford, I saw firsthand the lifelong effect child sexual abuse has on survivors whilst volunteering as the secretary for the Centre Against Sexual Violence.

Australia's Royal Commission into Institutional Responses to Child Sexual Abuse was a watershed moment for our nation. The recommendations are helping to break the harmful litigious tactics, stonewalling and disbelief that were an all-too-common experience for victims when they reported child sexual abuse. As outlined in the Queensland government response, we are committed to the vision laid out by the commission's recommendations and have worked in partnership with the community to implement these reforms.

This bill addresses two key reforms that I am pleased Queensland is now moving ahead with: reversing the onus of proof so that an institution must prove it took reasonable steps to prevent sexual abuse of a child in its care; and establishing a statutory framework for the nomination of a proper defendant to meet any liability incurred by an institution. These reforms go to the core of what the royal commission's recommendation on civil litigation hoped to achieve.

Not only will these changes ensure victims can more effectively pursue civil litigation; they will go a long way to preventing institutional child sexual abuse. Together, these changes focus institutions' attention on their responsibilities to children in their care, similar to the way they would consider any workplace health and safety issue for their workers. With the introduction of modern workplace health and safety laws we have seen huge decreases in workplace injuries. Similarly, with these changes we can have confidence that children will be better protected from sexual abuse and that many cases of abuse will be prevented.

The clear majority of matters before the royal commission revealed a failure by institutions to prevent abuse, even when it was suspected, reported or even confirmed. The commission heard evidence from a number of defendants and defendants' lawyers to the effect that they now consider that the litigation should have been handled differently, with far more compassion. As the commission

recommended, it is time for our laws to be recast to make sure we learn from past mistakes. That includes reversing the onus of proof for institutions in civil litigation alleging that the institution was negligent. This will mean that if a survivor proves that they were abused in an institution it is now for the institution to prove that it took reasonable steps to prevent the abuse. These policies are there to make sure that institutions are safe for children and that employees know how to report and respond to concerns of suspected abuse.

The commission also highlighted the difficulties victims faced when seeking to identify a proper defendant. Too often, victims able to prove abuse and negligence on the part of institutions were left with no civil recourse because the institution responsible simply no longer existed in any form or was structured in such a way as to make civil claims against past employees impossible. The commission's case study on the Catholic Church's Towards Healing approach heard evidence of one prominent survivor, Mr John Ellis. Mr Ellis's case highlights the injustice of the current system as he was left without any legal entity to seek redress from. It was a cruel matter of history that others would use the so-called Ellis judgement to defend litigation brought against them to shield institutions. Those arrangements end with these reforms.

Additionally, the Attorney-General has announced amendments that will extend the definition of 'abuse' to include serious physical and psychological abuse as well as sexual abuse. This is an important win for many survivors whose serious physical abuse was often overlooked and dismissed by our legal institutions. I want to acknowledge the advocacy of survivors like Allan Allaway and many others who have fought for the inclusion of physical violence. In his submission he stated that 'true justice can only be served through the recognition that civil liability should not only be for the child sexual abuse, but all other forms of insidious abuse'. The inclusion of serious physical and psychological abuse validates the experience of survivors who experienced multiple forms of violence and often had difficulty separating the harm caused by the different types of child abuse. These amendments are in line with the intent of the royal commission, which acknowledged violence in all its forms, and they bring Queensland into line with Victoria, New South Wales and Western Australia.

The reforms in this bill are a welcome addition to Queensland's ongoing response to the protection of children and the support for survivors of child abuse. These laws will go a long way to further the government's response to the royal commission and this parliament's ongoing commitment, made in 1999, to do all we can to ensure children in our care are not subject to abuse and neglect. I commend the bill and the amendments to the House.