




Speech By
Lance McCallum

MEMBER FOR BUNDAMBA

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**DEFAMATION (MODEL PROVISIONS) AND OTHER LEGISLATION
AMENDMENT BILL**

 **Mr McCALLUM** (Bundamba—ALP) (11.55 am): Mr Deputy Speaker Krause, with your indulgence, this is my first opportunity to place on record my deep sorrow and grief at the passing of our colleague Duncan Pegg, the member for Stretton. We lost a colleague, a community lost their champion, and many of us lost a mate. While there will be much more said in the future, every single time I come into this chamber and I sit down I think of Duncan because I have a very visceral reminder of that right next to me in terms of his absence from this place. My deepest condolences go to his family and loved ones.

I rise in support of the Defamation (Model Provisions) and Other Legislation Amendment Bill 2021. This bill modernises, streamlines and simplifies Queensland's defamation laws, providing greater clarity to the courts, the community and the media around the areas of freedom of expression, modern media reporting and the protection of people from reputational harm. Today we take another significant step in protecting the freedom of expression for all Queenslanders and ensuring open and transparent reporting continues across our state.

Key reforms introduced in the bill include: a single publication rule to provide simplicity around the one-year limitation reporting period; a serious harm threshold to be established by a party taking action for defamation and a requirement to issue a concerns notice prior to going to court; two new defences, including a public interest defence and a defence applying to peer reviewed statements and assessments in a scientific or academic journal; and greater clarification around the cap on damages for non-economic loss, setting the upper limit on a scale and applying regardless of whether aggravated damages apply. Defamation law must be balanced with the right to freedom of expression, which protects the right to hold an opinion without interference and the right to seek, receive and express information and ideas. The forms of protected expression are broad, and expression can be spoken, written or in print, art or any other medium. It includes spoken or sign language, books, newspapers, pamphlets, posters, banners, dress, legal submissions and audiovisual, electronic and internet-based content.

The right to freedom of expression and the free flow of information and ideas between people and through the media, particularly about public and political issues, is at the very heart of a healthy, democratic society—a society which we continue to enjoy here in Queensland. A number of the amendments we make today promote that right to freedom. Importantly, they also strike a balance between protecting individual reputations and ensuring the law of defamation does not place unreasonable limits on our freedom of expression.

Defamation laws give rise to two competing rights: the right of individuals to free speech and the right of individuals to the protection of their reputations. This bill includes a number of amendments that promote the right to a fair hearing by ensuring justice can be delivered in defamation proceedings in a timely, fair and efficient manner. Amendments to streamline the pre-litigation process and the

introduction of the serious harm threshold test will have a positive impact on our Queensland courts. The changes will facilitate the greater use of the pre-litigation process in the hope that parties can settle their disputes without the need to proceed to court.

We are further encouraging the early resolution of defamation proceedings by enabling the issue of serious harm to be dealt with as a threshold issue. As a result, the defence of triviality—which currently requires a defendant to prove the harm caused by a defamatory matter was trivial—will be removed from the act. It is unfortunately becoming more common for defamation law to be used for neighbourly disputes and backyard defamation claims whereby people sue each other for comments made on digital platforms.

Debate, on motion of Mr McCallum, adjourned.


Sitting suspended from 12.00 pm to 2.00 pm.

DEFAMATION (MODEL PROVISIONS) AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Resumed, on motion of Ms Fentiman—

That the bill be now read a second time.

 **Mr McCALLUM** (Bundamba—ALP) (2.00 pm), continuing: I will pick up where I left off before lunch regarding it being unfortunate that it is becoming more common that defamation law is being used for neighbourly disputes and backyard defamation claims, particularly within the context of the use of social and digital platforms. While some of these matters are relatively minor with low damages awarded, they do come with disproportionately high legal costs and, of course, take up significant court resources. This bill aims to ensure that only a plaintiff who has suffered sufficient harm to reputation can sue for defamation. This reflects the balance between protecting an individual's reputation and not unduly limiting freedom of expression. Further, preventing matters which are trivial or minor in nature or which do not result in any significant harm to a plaintiff being the subject of a lengthy and expensive litigation also promotes and encourages freedom of expression. These amendments strike a better balance between the need to provide fair remedies for a person whose reputation is harmed by a publication and the need to ensure defamation law does not place unreasonable limits on freedom of expression, particularly about matters of public interest.

We are also taking steps to reduce forum shopping amongst states and territories that had previously applied different defamation laws. That is particularly important. The risk is further heightened through a changing and more modern defamation landscape. The decision to achieve and maintain uniformity of defamation law is based on the fact that it is commonplace for the same matter to be published in more than one Australian jurisdiction, and individual and corporate publishers should not need to consider the potential impact of different state and territory defamation laws before deciding whether to publish material.

Uniformity also assists both parties in knowing their rights and limitations under the law. These amendments keep pace with popular mediums of publication, the most dominant now being the internet, along with increasing use of social media platforms. This is a commonsense approach that brings our defamation laws into the digital age where online distribution is our new norm.

I do note with concern matters currently underway in New South Wales where the LNP Deputy Premier is suing political journalists and Google. Meanwhile, here in Queensland, the state LNP have been totally silent on the actions of the disgraced federal LNP member for Bowman, which includes concerning, aggressive and fixated actions, both in person and online, against the member for Redlands which have been brought to the attention of this House and roundly condemned by those of us on this side.

I turn now briefly to the amendments to the Heavy Vehicle National Law and Other Legislation Amendment Act 2019. This bill repeals sections 10 and 11 before their commencement on 27 September this year. The commencement of sections 10 and 11 would cause unintended and inconsistent mass and dimension enforcement outcomes for performance based standards vehicles detected operating off route compared with other heavy vehicle classes. The repeal of these sections will retain the status quo in relation to PBS vehicles detected operating off route and will provide time for the issues that have been raised to be addressed in a more fundamental and holistic way as part of the national law review being led by the National Transport Commission. I commend this bill to the House.