CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2021

Second Reading

Resumed from an earlier stage of the sitting.

MS C.M. ROWE (Belmont) [2.49 pm]: I had just begun my contribution to this very important Children and Community Services Amendment Bill 2021 when, of course, we had to interrupt debate for question time, so I would just like to once again place on the record how important this legislation is. I had an opportunity to speak on an earlier version of this bill when it was introduced by Minister McGurk in the previous Parliament, and I note her significant contribution to this reform. I think it will have a very important and significant impact on many children right across Western Australia and especially those who are most vulnerable in our community.

I would like to take this opportunity to remind members and tell some of our new members why this reform is so important, as I did in my original contribution on this bill, by going through a particular instance. Back in 1979, John Pirona was a 13-year-old student at St Pius X High School in Adamstown. Mr Pirona should have been enjoying school and enjoying his childhood. He had his whole life ahead of him and he should have been afforded a carefree adolescence. Instead, Mr Pirona was sexually abused by notorious Catholic priest and teacher John Denham. In 2018, Denham was found guilty of abusing his fifty-eighth victim between 1968 and 1986—58 children whose childhoods were destroyed by a single man. Fifty-eight—that is two classrooms full of utter destruction left in the wake of a man whose depravity and pure evil should have no place on this earth. Denham was protected by St Pius principal and priest Tom Brennan, who was also acknowledged by the church as a child sex abuser.

Mr Pirona did not tell his wife or other family members of the abuse until 2008. By this time, the abuse that he had suffered had led to an intermittent struggle with alcohol and drugs. In 2012, Mr Pirona tragically died by suicide. He was found with a note that read "too much pain". The years of pain and substance abuse issues stemming from his abuse as a child drove Mr Pirona to take his own life. It left a gaping hole, of course, in the lives of his parents, wife and two young children, and sparked a national cry for action. It proved to be the catalyst for the royal commission announced by then Prime Minister Julia Gillard in late 2012.

The Royal Commission into Institutional Responses to Child Sexual Abuse was as damning as it was utterly disgusting. The sheer scale of institutionalised abuse is difficult to comprehend and perhaps is why definitive action has been so hard to come by. When the damage is so vast and so prevalent, it is hard to imagine what can possibly provide adequate compensation, reconciliation and atonement. The commission was contacted by 16 953 people who were within its terms of reference. The commissioners listened to the personal stories of over 7 981 survivors and read 1 344 written accounts. Sadly, Western Australia was at the forefront of this investigation. Three of the top four church institutions reported for incidents of child sexual abuse from 1980 to 2015 are in Western Australia.

The Children and Community Services Amendment Bill continues our government's commitment to bringing Western Australia in line with the 310 recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. One of these recommendations relates to the reporting of suspected child sexual abuse. This government will make it mandatory under the law for a religious minister to report reasonable belief that a child has been, or is being, sexually abused, which I think is incredibly important. The abuse that survivors are subject to as children has long-lasting, incredibly debilitating and often irreversible effects on that person's life and trajectory. Studies have shown time and again that trauma of this kind experienced in childhood leads to a greater risk of serious mental health and substance abuse issues later in life.

Associate Professor Judith Cashmore and Dr Rita Shackel acknowledge in their paper, *The long-term effects of child sexual abuse*, that aspects of abuse are significant factors in the mental wellbeing of victims, which is of course entirely understandable. One of those factors is the relationship with the perpetrator and the betrayal of trust between the perpetrator and the victim. This is particularly pertinent for the reform that we are considering today. A minister of religion should never ignore suspected child abuse for the protection of colleagues or institutional reputation. Religious institutions and those who lead them should welcome these reforms that are designed to protect vulnerable children. Instead, I was absolutely shocked and affronted when Perth's Catholic Archbishop, Timothy Costelloe, criticised these long overdue reforms in *The West Australian* in 2019 when we first introduced this bill into the house. I must say that this particularly troubles me, given that my two children are baptised and go to a Catholic school. I am personally very disappointed that the church was not more forthcoming in embracing these changes. The archbishop was quoted as saying that he saw these reforms as "interfering with the free practice of the Catholic faith". Let us be very clear: this legislation will not allow for the broadcast of every utterance made in confession. It is targeting the most heinous and evil of confessions that could be heard by priests—that of child abuse. When reflecting on the intention of those coming to confession, the archbishop was quoted again in *The West Australian* in May 2019 —

> You don't come to confession unless you have recognised the sinful nature of your behaviour, are filled with sorrow and shame of it and determined never to commit such sins again.

I do not believe that sorrow and a commitment not to reoffend are in any way adequate in dealing with such crimes.

This, of course, is the great conceit of confession when considered against our modern and ever-evolving legal system and the expectations of our community. Although the sinner can wipe clean their conscience and maintain never to return to their sins, effectively absolving themselves of these crimes in the eyes of the church, this provides not a skerrick of comfort for the victims, and, of course, no justice in the eyes of the law. Confession is a matter of absolving sins, not of righting wrongs. The archbishop and the Catholic Church need to ask themselves whether holding on to the secrecy of confession in the most egregious and extreme circumstances is more important than the protection of children from further abuse. I have friends who are practising Catholics who really struggle with this concept, and I appreciate that it is difficult for practising Catholics to see this point of view; however, it is an important acknowledgement and the church really should embrace these changes.

The stories of child sexual abuse that have come to light in the past decade have been absolutely gut-wrenching, and the covering up of these crimes has been at best despicable, cowardly and thoroughly disappointing on all fronts. Any individual who chooses not to report a reasonable belief that a child has been, or is being, sexually abused needs to be held responsible for the consequences of their inaction. As a mother of two, I cannot even begin to fathom the devastating effects that the sexual abuse of a child has on the victim and the victim's family. Knowing that a trusted local figure had prior knowledge of the abuse and chose not to report it would only intensify the agony for the victim and their family. There really is no excuse not to report suspected child abuse. It flies in the face of our principles of decency and justice. The damage that this non-disclosure can cause is devastating, long-lasting and in some instances can prove fatal when a victim feels that there is no option other than to take their life to release themselves from the pain. We owe this to every victim who has taken their life, to every victim who never got to see justice served and to every survivor who has suffered in silence when a mandatory report could have seen them receive the help they desperately needed to heal from this trauma. As a Parliament, we have an undeniable obligation to protect the most vulnerable in our society, and I think that everybody who is sitting here in this chamber would acknowledge that. Mandatory reporting of suspected child abuse will result in earlier identification of child sexual abuse cases. In these cases, support will be able to be provided to the victim earlier than has previously been the case. This will hopefully mitigate some of the damaging mental health and substance abuse effects that child sexual abuse is known to have on victims. Mandatory reporting will ensure that child sex offenders are apprehended and brought to justice earlier than they have been in the past. This will stop repeat offenders before they can traumatise children to the extent that John Denham did over 18 years.

Other amendments in the bill align with the royal commission's recommendation 12.20 regarding full implementation of the Aboriginal and Torres Strait Islander child placement principle, and recommendation 12.22 for strengthened supports to assist care leavers to safely and successfully transition to independent living. The member for Kimberley touched on both of these, and they are incredibly important elements of this bill.

The Children and Community Services Amendment Bill 2021 will also implement recommendations of the *Statutory review of the Children and Community Services Act 2004*. The act was reviewed in 2017 by the then Department for Child Protection and Family Support, on behalf of the minister. It established five terms of reference. This bill implements recommendations concerning four of those five terms of reference. The fifth term of reference needs to be considered within the context of broader reforms underway in family law and Children's Court jurisdictions.

The amendments to the principles in part 2 of the act are crucial in the promotion of long-term stability for a child in care, with consideration of whether it is appropriate to work towards reunification with their parents. These principles will guide the planning conducted by the Department of Communities for children under the care of the CEO, which will aim to provide the best possible outcome for this group of vulnerable young Western Australians. The objectives of this planning include achieving continuity and stability in living arrangements; enhancing the child's relationships with family, subject to protecting the child from harm and meeting the child's needs; and for an Aboriginal child or a child from a culturally and linguistically diverse background, enhancing connections to culture and family traditions. As the member for Kimberley pointed out, that is incredibly important. I acknowledge Kinship Connections in my community in Belmont that does a lot of great work in that space around connecting kids in care with culture and family. It is fantastic work. More needs to be done, as the member for Kimberley already touched on in her contribution. The objectives for a placement arrangement include placing the child with family, placing the child with siblings and placing the child with people who are prepared to encourage and support the child's contact with family, subject to decisions under the act about that contact. These principles strongly set out a long-term plan for children in care, taking into account the very different situations each of them face, and the importance of cultural considerations in their continued wellbeing.

Connection to family, culture and country for Aboriginal and Torres Strait Islander people is critical to their emotional, social and physical health. The amendments in this bill have a strong focus on preserving these principles for Aboriginal and Torres Strait Islander children in care. This aligns with recommendation 12.20 of the royal commission—that governments work towards full implementation of the Aboriginal child placement principle and a greater understanding of its intent, which is to enhance and preserve Aboriginal children's connection to family

and community, as well as a sense of identity and culture. The amendments achieve this by illustrating an order of priority for the placement of an Aboriginal child. This order has been devised with the principle of connection to family, culture and country in mind. It acknowledges that if the optimal placement of an Aboriginal child with family is not possible, there are placements that would better preserve the aforementioned principles than others would. The amendments also provide for greater participation in the placement process by Aboriginal members of the child's family and Aboriginal representatives. This approach will solidify the emphasis placed on connection to family, culture and country by ensuring that decisions are made in collaboration only with representatives who have a strong knowledge of each child's heritage and community.

This bill is a vital compilation of amendments that will strengthen legislation regarding some of the most vulnerable Western Australians in our state. These changes will have a real impact. The expansion of mandatory reporting of child sexual abuse to include ministers of religion will result in earlier identification of child sexual abuse victims, helping to stop repeat offenders and providing assistance to victims who may otherwise not be identified. The updated principles for child care placement will provide a more conclusive set of guidelines to ensure that children in care have long-term stability, with culturally appropriate plans in place. Overall, this bill will provide at-risk Western Australians with greater protections under the law, a long-term focus on child care placements that are culturally sensitive, and assistance that does not cease once a child has left care.

[Member's time extended.]

Ms C.M. ROWE: I am incredibly proud to be part of a government that is implementing such important reform for children in the care of the Department of Communities. I once again would like to acknowledge the commitment of the minister, who has worked tirelessly to produce this bill and the amendments in line with the royal commission. The work and dedication of the minister is very impressive. Finally, I would like to express my deepest and most sincere condolences to all victims of child sexual abuse and their families, as well as those children who have had detrimental experiences in care in Western Australia. It is my hope and belief that this bill will prevent other young Western Australians from experiencing similar abuse and trauma through their childhood. I commend the bill to the house.

MRS J.M.C. STOJKOVSKI (Kingsley — Parliamentary Secretary) [3.07 pm]: I rise to make a brief contribution on the Children and Community Services Amendment Bill 2021. I do so from an informed place, as the only member left in this chamber who served on the fortieth Parliament's Joint Standing Committee on the Commissioner for Children and Young People that undertook an inquiry and produced the report *From words to action: Fulfilling the obligation to be child safe*. The *From words to action* report addressed some of the issues we are talking about in this bill and it looked at how different jurisdictions around the world were progressing with their version of our royal commission. It is fair to say that Australia is not unique or alone in its quest to prevent child sexual abuse or improve outcomes for children who experience institutional child sexual abuse. Every jurisdiction around the world is grappling with how we change from words to action. This report investigated how we could do that in a Western Australian context and what we could learn from other jurisdictions. The inquiry took us to a number of jurisdictions in the United Kingdom and Ireland. I particularly want to talk about Ireland, because while we were there doing this inquiry, we visited some Irish departments that deal specifically with institutional child sexual abuse ramifications, and one of the questions I asked at the time was how they deal with breaking the seal of confession. As most members would understand, Ireland is one of the world's Catholic strongholds. I am Irish and Catholic and we hold both our Irish nationalism and Catholicism very close to our hearts. However, it was very clear in that meeting in Ireland that it would not be tolerated. I cannot remember the exact words but it was something along the lines of, "If they want to practise their faith in Ireland, they abide by Irish law." That is really important for us here because it can be very challenging. As someone brought up in the Catholic faith, I uphold many Catholic traditions and practices and I send my children to a Catholic school. I understand the importance of confession held by Catholics and how important it is to us in our faith. However, I challenge those protesting against the amendment in this Children and Community Services Amendment Bill and claiming that it goes against their Catholic faith and that we are interfering in their Catholic faith, to sit back and think about the ramifications of what they are saying.

They are saying that their personal Catholic faith is more important than a child—more important than a child's safety and more important than a child's life. Let us not pretend that acts such as those perpetrated against children do not end in death—not all the time but sometimes. A lot of times, it does. Are we so selfish as Catholics that we think our personal faith is more important than a child's life? That is the question I put to those who claim that the Western Australian government is interfering in our faith. I will stand here strongly and proudly as a Catholic and say that I think a child's life is more important than not breaking the seal of confession, because we cannot in good conscience claim that we are more important than our children, than their future. I ask those who are challenging this to stop and think: if it were your child, how would you feel?

I note also that one of the findings in the report that came from this inquiry was that the prevalence of child-on-child sexual abuse is rising, or the reporting of it is rising. In breaking the seal of confession to report a child-on-child sexual abuse situation we may not be saving or helping just one child but, in fact, two children. It has been found

over and again that children who perpetrate sexual abuse on other children have often been the victims in other circumstances. Yes, it is uncomfortable; this whole topic is uncomfortable, but that does not mean that we hide behind something. It means that we accept that we are the responsible adults in the room, and we have a responsibility to the children who are victims and, equally in these situations, to the children who are perpetrators, because they need as much support and help to remedy their actions as their victims need to recover from them.

I ask those who are protesting against the idea of breaking the seal of confession to really stop and think about what their reasons are for doing it and whether they can justify them against the lives of children. It sounds very grim and scary and I probably have not made any friends now in my Catholic community but I stand by my comments.

Mr D.A. Templeman: Well done, member.

Mrs J.M.C. STOJKOVSKI: I am in the rare position of being part of a foster family. A number of foster children came and lived with us when I was a child. That has given me firsthand experience of how good decisions can be really great for children in care but, equally, bad decisions can be devastating. I will not go into the specifics of family and my foster siblings because I have not asked for their permission to do so. However, I will say that changing decisions around placement for Aboriginal people and being sensitive to the individual circumstances of children is important. The best place for an Aboriginal child on country might be with a white person in that community because there is nobody of Aboriginal and Torres Strait Islander descent in that community who has capacity. Moving them off country could have a far more devastating effect than keeping them on country with a white person. I commend the minister for including this in the bill and for being sensitive and responsive to the needs of our Aboriginal and Torres Strait Islander brothers and sisters in our community. Until we understand that we can make better decisions, we cannot hope for changes in their future. I commend the minister for including this in the bill.

I go back quickly to the report I was talking about. If members have an interest in this area, I strongly advise that they read this report, *From words to action: Fulfilling the obligation to be child safe*. It has made a lasting impression on me as one of the members involved in the report. I know that the learnings from this will stay with me for a long time. One of the things I am still advocating for—the poor minister is probably sick and tired of hearing from me about these issues—is the professionalisation of child safety officers. We have done it before. The changes in this bill are a great step, but they are a step in a journey; they are not the end. I do not think we will ever see the end of our journey to ensure the safety of our children, but the professionalisation of child safety was a learning that came out repeatedly in every jurisdiction we visited. We have done it before. Twenty or 30 years ago, occupational health and safety was almost non-existent in workplaces and on worksites—probably going back even further. Now it is standard practice in workplaces that there is occupational health and safety. It is a targeted objective that we make a conscious effort to ensure we all go to work and go home safe. The same type of thinking could be applied to the professionalisation of child safety officers in schools, churches, community organisations and sporting groups. They can be used to create child-friendly workplaces. Once we start thinking about children and how we interact with them, Parliament is probably a good example of how not to interact with children. Our committees, for example, cannot take evidence from children. There is no capacity for them to do that, yet a lot of things we speak about have a direct impact on them. There is work for us to do and we should lead by example in that. The idea of professionalising child safety is not to point out one person and say, "You are our person who deals with everything." It is to ensure that there is professional knowledge that understands that child safety is paramount. If a child is interacting in an organisation, we need to ensure they can do that safely. A professional child safety officer—it does not have to be called that, but whatever it is called—will be the person who implements those strategies and changes across an organisation. Yes, part of that may include being the funnel for mandatory reporting if that is a requirement.

I would like to reflect on the Scotland experience. When we were in Scotland, we kept hearing that as parents we are all responsible for the wellbeing of a child. The responsibility does not sit with the mum or the dad. How many times have we heard the saying, "It takes a village to raise a child"? I certainly know that my co-members of Parliament who have young children agree that it is impossible to rely on just the parents to raise a child because this job does not allow for it. We have to depend on our village, and I think that is a really important sentiment that we need to build into organisations. It is about the responsibility of adults to look after children. We should not be putting this back on the child; after all, they are children, although some can advocate for themselves. I am sure that my 11-year-old would advocate to anyone who will listen to her, but others cannot. As responsible adults, it is our opportunity to look after all children, not just those who fall directly within our care. I would like to commend the minister for this. I know we have done a lot of great work in the area of children in care.

I would especially like to thank the minister for bringing forward the election commitment called Home Stretch. It is something I have earbashed the minister about for a number of years. For those who are not aware, children in care are looked after by the department until they are 18 years old and Home Stretch stretches that out to 21 years. Having had a number of foster siblings over the years and having had exposure to foster families, I can tell members they do not just look after children until they are 18 years old. I could claim that for most of us here, our parents probably did not look after us until we were 18 and then pat us on the back before sending us out into the world. Of course, parents look after children long after they turn 18 years old. I commend the minister for that change

and I look forward to it being implemented. Equally, this legislation is a great step on our journey to ensuring our children's safety. I commend the bill to the house.

MR D.A.E. SCAIFE (Cockburn) [3.21 pm]: I am pleased to speak today on this important bill, the Children and Community Services Amendment Bill 2021. I congratulate the minister for bringing this bill back to this house in this term of Parliament because it is an important piece of legislation. As we have heard from other speakers, this bill responds to recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse, which was a landmark royal commission commissioned by the Australian government some years ago now. It uncovered a history of child sexual abuse in institutions around the country that was lamentable and is arguably one of the greatest stains on the history of this country. The bill is also a response to the 2017 statutory review of the Children and Community Services Act 2004 and implements important reforms in that respect.

My contribution today will be largely limited to the issue of mandatory reporting for ministers of religion. That is only one feature of this bill but it is obviously a feature that has attracted significant commentary in the community at large, particularly—obviously—from religious leaders in the community. It is important to acknowledge at the outset that the reform that this bill implements of making it mandatory for ministers of religion to report allegations of child sexual abuse, including when the material is provided to the minister in the confession, is a reform that is supported very broadly by a large number of stakeholders. It was a recommendation of the royal commission. It is supported by survivor advocacy organisations like the Blue Knot Foundation. It is also supported by social services peak bodies like the Western Australian Council of Social Service. However, it needs to be acknowledged that one group, unfortunately from this Parliament, thought that it knew better than people in those groups. That was the majority of the Standing Committee on Legislation in the last Parliament, which recommended against this reform in its report. That majority was made up of Hon Simon O'Brien, Hon Jackie Boydell and Hon Nick Goiran. What I would say to those members and former members who made those recommendations in the last Parliament—who think that they know better than survivors of child sexual abuse and advocacy organisations—is that it is clear they are still not listening. A clear finding of the royal commission is that institutions did not listen to victims, did not listen to survivors and did not listen to their families. It is a true shame that it is still the case that people are not listening to survivors. I am here today to say that I am listening to survivors. I have heard survivors. I will be voting in favour of this bill because it makes important reforms that will make children safer.

It is worth reflecting on the findings of the royal commission, which set out exactly why mandatory reporting, including for ministers of religion, is so important. The first pertinent finding that the royal commission made was that ministers of religion interact frequently with children in the course of their work. I will quote from the report of the royal commission. The royal commissioners said —

> The many ways that people in religious ministry engage with children, sometimes on a daily basis, enable them to detect and receive disclosures of both familial and institutional child sexual abuse. Extending laws concerning mandatory reporting to child protection authorities to people in religious ministry could therefore play a powerful role in preventing or intervening at an early stage in child sexual abuse cases. Further, reporting to a child protection authority may be the most appropriate reporting pathway in the first instance for religious institutions where there is little separation between the church and the family.

This extract from the final report of the royal commission sets out that one of the reasons this reform is so important is because ministers of religion, by virtue of their vocation and their calling, have interaction with children on a day-to-day basis and therefore they are in a prime position to report and encourage early intervention in cases of child sexual abuse.

The other finding of the royal commission that is crucial here to understanding where this reform comes from is that there was a culture of hierarchy and secrecy in many religious institutions and that those cultures were antithetical, essentially, to reporting and disclosure of allegations of child sexual abuse. I quote again from the final report of the royal commission. The royal commissioners said —

> … many of the religious institutions we examined in our case studies had institutional cultures that discouraged reporting of child sexual abuse. Obliging people in religious ministry to report child sexual abuse to child protection authorities may help overcome cultural, scriptural, hierarchical and other barriers to reporting.

That observation is the next step on the road towards this reform because mandatory reporting is all about piercing the culture of secrecy, the cultural authority, the culture of hierarchy that allowed child sexual abuse to unfortunately fester in religious institutions for many years. Insisting that ministers of religion report allegations of child sexual abuse that are disclosed to them in confession is an important part of changing that culture. As I alluded to earlier, the way that children were treated in many instances when they were in institutional care—in some cases, government-run institutions and also in institutions run by third parties such as religious organisations—is a stain on the history of this country.

On the issue of the need to break the seal of confession, which is pertinent obviously to the Roman Catholic Church, it is notable that 61.8 per cent of sexual abuse allegations investigated by the royal commission were accounted for by the Roman Catholic Church—the vast majority. It cannot be denied that the Catholic Church has a particular responsibility and a particular history that means that action is needed to ensure that child sexual abuse does not continue.

I would like to draw the chamber's attention to a recent decision of the District Court of Western Australia that graphically outlines the horror of that history of child sexual abuse against particular victims. The case that I am referring to is Lawrence v Province Leader of the Oceania Province of the Congregation of the Christian Brothers [2020] WADC 27 and it is the judgement of Judge Herron. The judgement concerns a personal injuries claim made by John Lawrence. John Lawrence was a victim of a number of Christian Brothers, but particularly Brother Lawrence Murphy, when he was in the care of the Christian Brothers at Castledare Boys' Home and Clontarf Boys' Home in the 1950s. I am going to read some extracts from the judgement because I think it is important that we speak in this place honestly and openly about the reality of child sexual abuse, but I give a warning that some of the statements made by Judge Herron that reflect on Mr Lawrence's history could be seriously distressing for people, particularly survivors of child sexual abuse. I also want to say that although I think it is necessary to put these extracts on the record, the true focus of this judgement should be on the bravery of John Lawrence in coming forward and telling his story repeatedly when he was not believed and pursuing his case all the way through our court system to seek justice for himself. He may have been a victim of child sexual abuse, but he is not defined by his victimhood. This is a sample of the findings that Judge Herron made in the decision on the abuse suffered by Mr Lawrence. This is from paragraph 732 of the judgement —

> Following the initial violent and brutal anal rape perpetrated upon Mr Lawrence when he was a 9 year old child by Brother Murphy, the course and trajectory of Mr Lawrence's life was irrevocably determined. From that moment it was inevitable Mr Lawrence would be tormented by what was done to him for the rest of his life and suffer serious psychiatric injury. If there could possibly be any uncertainty about that, the outcome was put beyond doubt by the ongoing repeated anal rapes committed by Brother Murphy over the next approximately two years when Mr Lawrence was aged 9 and 10. Mr Lawrence was a small boy, about 3 foot in height. Brother Murphy was an adult, about 6 foot in height, twice the height of Mr Lawrence. Brother Murphy was supposed to be Mr Lawrence's carer. He was his teacher. Mr Lawrence was a young, isolated, vulnerable boy, abandoned by his mother who had treated him poorly. He was in desperate need of care and support. The Christian Brothers, as an institution, and those Brothers who sexually abused Mr Lawrence, particularly Brother Murphy, failed to come close to providing the care and support Mr Lawrence so desperately needed. Of course, that need for care and support was only heightened after Mr Lawrence was first anally raped by Brother Murphy.

The judgement goes on but, truthfully, it is too distressing even for me to put on the record in this place. However, it is worth members reflecting on the point that these are not abstract concepts that we are talking about; these are real children who have been and, unfortunately, are being affected by the most serious violation of their privacy, dignity and humanity.

It is obviously the case that in a debate on a bill like this, we are focused on the best interests of the child. This is where I do not follow those who oppose mandatory reporting for ministers of religion, including breaking the seal of confession. These are the same people who day in and day out tell us that the best interests of the child are the paramount consideration in all sorts of political debates. These are the same commentators who refused to support marriage equality because of this dogmatic and misguided position that children's best interests are somehow served by having a mother and a father.

These opponents have to ask themselves this question, because it points out a fundamental cognitive dissonance in their position: how do they square their position on the importance of the best interests of the child, yet deny that anybody who became aware of Brother Murphy's offending in confession should have been obliged by the law to report it? One of the arguments that is put by people who oppose this change is that there is no need for it. They say that abuse is almost never, if not never, disclosed in confession, but that is not the case. Again, the following paragraph is taken from the judgement of Judge Herron and it is from the paragraphs about the case for exemplary damages to be awarded. Those damages were ultimately declined but the following paragraph is telling. This is paragraph 954 —

> The next day, 7 January 1937, Brother Noonan wrote to Brother Hanrahan, the Brother Provincial in the following terms, relevantly in relation to Brother Traynor:
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> > I saw him yesterday, 6th and outlined the procedure. He told me the whole ugly story—in Loyola with two (perhaps three) of his boys, Ronnie Dunne, Lyal Hawthorne and (perhaps) Chas. Davies. I give the names lest they might be required later. After the deeds he apologised, urged them —

The victims —

> to tell all in confession and went to Sacrament himself. All occurred in the boys' separate bedrooms. He was in a wretched state and expressed the dearest wish of his life to be retained … Our duty is to protect the children entrusted to us; to safeguard the reputation of the Congregation and to be just to all. I gave him until to-day to consider whether he would risk expulsion by appearing before the Council, or apply voluntarily for a dispensation. He has just sent me word that he is applying for a dispensation. The letter is in the post and I shall have it this evening. Meantime I have sent the Bursar General to fit him out. This is a sad ending. May God help us and protect us.

That is not the sad ending to that story. The sad ending was right back when the abuse was committed. The sad ending is not the fact that Brother Traynor was in a terrible state and that he volunteered for a dispensation. In any event, the paragraph that is quoted from that correspondence, dating as far back as 1937, demonstrates that there was knowledge of abuse. It was revealed in confession, potentially by victims but certainly by the perpetrator, so it is historical abuse that has been disclosed in confession and therefore shows a need for this reform.

[Member's time extended.]

Mr D.A.E. SCAIFE: That finding is also consistent with the findings of the royal commissioners. I will quote again from the final report, in which the royal commissioners stated —

> We are satisfied that the practice of the sacrament of reconciliation (confession) contributed to both the occurrence of child sexual abuse in the Catholic Church and to inadequate institutional responses to abuse. We heard in case studies and private sessions that disclosures of child sexual abuse by perpetrators or victims during confession were not reported to civil authorities or otherwise acted on. We heard that the sacrament is based in a theology of sin and forgiveness, and that some Catholic Church leaders have viewed child sexual abuse as a sin to be dealt with through private absolution and penance rather than as a crime to be reported to police. The sacrament of reconciliation enabled perpetrators to resolve their sense of guilt without fear of being reported. Also, the sacrament created a situation where children were alone with a priest. In some cases we heard that children experienced sexual abuse perpetrated by Catholic priests in confessionals.

There really can be no doubt about the evidence that supports the need for the reforms in this bill. Even if it is the case that child sexual abuse is disclosed in a confessional, once is reason enough to justify this reform. One disclosure of child sexual abuse in a confessional is one too many, and it is plainly a matter that should be reported to the relevant authorities.

One of the other arguments that is marshalled against this reform is an appeal to religious freedom. Members will get no arguments from me about the importance of religious freedom. Those who know me know that I worked as an industrial relations lawyer for a number of years. I often dealt with cases in which people were discriminated against in the workplace based on their political opinion or their religious beliefs. There is no doubt that that is not only unlawful, but also immoral in our country. There is no argument from me that religious freedom is not important. Plainly, as with all rights and freedoms, it has to be balanced against other rights and freedoms and it has to be interpreted given the expectations of our society.

One of those expectations from the community is what I have already referred to—the importance of the best interests of children, some of our most vulnerable members of the community. This point was acknowledged by the royal commissioners. In the final report, they stated —

> Although it is important that civil society recognise the right of a person to practise a religion in accordance with their own beliefs, that right cannot prevail over the safety of children. The right to practise one's religious beliefs must accommodate civil society's obligation to provide for the safety of all individuals. Institutions directed to caring for and providing services for children, including religious institutions, must provide an environment where children are safe from sexual abuse.

In my view, arguments about what is mandated by canon law in the Roman Catholic Church are futile because it is plainly a principle of our society that laws of any religion must give way to secular law. Yet it is galling to note that there have been indications from the Catholic Church, some quite recently, that that will not be the case. I refer members to an article on ABC online dated 12 September 2020 entitled "Queensland Bishop Michael McCarthy says priests will not break seal of confession to report sex abuse, despite new law". It states —

> But Bishop McCarthy said Rome had not changed its view.
>
> "Within the Catholic Church, a priest is not allowed to break the seal of confession. That is what we have all promised and what we have all signed up to do," he said.
>
> "It's a real dilemma that we have the state law that has been passed and it has been passed in other jurisdictions now.

> "However, confession is conversation between that person and God.
>
> "Certainly in confession, there is the opportunity to say to people—if it is criminal, or evil—then it is time to go and talk to the police."

That is not an answer to someone who is put in the position of child sexual abuse being disclosed to them—to simply say they should just inform the alleged perpetrator or the person who made the disclosure that maybe they should talk to the police. Expectations have changed. The community expects people to report those allegations to relevant authorities so we break down the secrecy and the silence and ensure intervention in these cases at the earliest possible stage.

What is interesting about Bishop McCarthy's statement is that it flies in the face of comments that were made by representatives of the Catholic Church to the royal commission when they gave oral testimony. I will quote a statement made by Cardinal George Pell during his oral testimony to the royal commission. He said —

> We have always complied with the law of the land, and we will comply with the law of the land in the future … I repeat, whatever we are compelled to do, we will do.

Apparently, that is no longer the case, at least for Bishop McCarthy. This is a reflection of what is referred to as the outward face of religious institutions, particularly the Catholic Church, in an article entitled "Catholic Church Responses to Clergy–Child Sexual Abuse and Mandatory Reporting Exemptions in Victoria, Australia: A Discursive Critique" by Michael Guerzoni and Hannah Graham, published in the *International Journal for Crime, Justice and Social Democracy*. I recommend that members read that article if they have time. The authors reflect on the fact that there are two faces of the Catholic Church: there is an outward face, which claims some level of responsibility for the abuse that has occurred in the past, and there is also an inward face, where there is a denial of responsibility and an appeal to higher loyalties. I have given the example of the outward face, which is the statement of Cardinal Pell. I also want to give some examples of what the authors describe as denials of responsibility. The authors set out a supplementary submission from the Catholic Church in Victoria, which said —

> … the decision to report belongs to the victim. The law in Victoria does not require the reporting of criminal offences to the police. If a victim does not want to report the abuse to police, the Church has no right or obligation to do so.

This is the inward face of the Catholic Church that denies responsibility for having to report child sex abuse. Of course, the appeal to higher loyalties that is used to avoid reporting disclosures is reflected in appeals to the seal of confession and the inviolability of that disclosure. The authors of the Victorian supplement also stated in their report —

> Any legislative amendment that purported to require priests to violate the sacramental seal of confession will be ineffective as *priests will simply be unable and unwilling to comply… Canonical obligations override* inconsistent obligations purportedly imposed by civil law …

It is an extremely troubling position to take that members of the Catholic Church—ministers of religion—are not responsible for following the law in our jurisdiction. I would simply say to the opponents of this reform that they should search their conscience on this issue long and hard, because no amount of obscurantism and no amount of appeal to vague academic arguments are an excuse for failing to report child sexual abuse. They offer no real justice and no real way forward for victims. If the position of opponents of this reform is that they do, they should search their conscience. There is resounding evidence that this reform is needed.

DR K. STRATTON (Nedlands) [3.51 pm]: I am pleased to stand in support of the amendments in the Children and Community Services Amendment Bill 2021. I, too, wish to speak in particular to the changes to mandatory reporting. I was working as a social worker at Princess Margaret Hospital for Children when mandatory reporting first came onto the legislative agenda. Working in a setting in which the care and wellbeing of children was our core business, we welcomed this change. No longer would reporting rely on reciprocal agreements between departments, or worse, on the individual decision-making of practitioners. Although mandatory reporting certainly is not a panacea or a preventive mechanism, it is a mechanism for ensuring that children's disclosures are not only heard, but also acted upon and that their protection is at the core of all decision-making, not the protection of institutions, professions, individuals or traditions and processes.

The bill now adds additional occupational groupings to the original list of mandatory reporters from that which was first formulated in 2009. This change recognises that many other professionals and groups have the moral responsibility and now the legal responsibility to act on children's disclosures of sexual abuse. I recognise that this is a response from the McGowan government to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and note that the McGowan government has accepted all the recommendations of the royal commission. I would like to particularly thank and commend the Minister for Community Services for her ongoing work to continue to progress those recommendations in the Western Australian context.

Prior to entering Parliament, I served on the board of Forgotten Australians Coming Together, operating as Tuart Place in Fremantle. This is a unique not-for-profit Western Australian organisation representing and providing services

for people who were in out-of-home care during childhood, including former child migrants. The voice of lived experience is highly privileged at Tuart Place and people with a lived experience of out-of-home care comprise half the board. It was both an education and an honour to serve alongside them. It is my learning from the participants at Tuart Place that I stand to give my support for this amending bill.

The participants of Tuart Place are largely older Australians in their 60s, 70s and 80s, and many were in church-run orphanages, organisations and other forms of institutional care in childhood. Many of those participants were courageous in stepping up to provide evidence to the royal commission. I would like to take a moment to acknowledge the leadership of Tuart Place, director Dr Philippa White, board chair Cevrina Reed and deputy chair Dale Lynch, as well as senior practitioners Susy Vaughan and Jan Newman, for their support to survivors in giving very, very difficult and challenging evidence as well as the multiple written submissions that Tuart Place made on behalf of survivors of child sexual abuse throughout the royal commission. I thank them for that particular piece of work as well as their ongoing work advocating for the needs of all survivors of all types of childhood abuse.

Participants who provided evidence to the royal commission relived their experience of childhood sexual abuse at the hands of those meant to care for, nurture and protect them. Perhaps worse still, however, was the evidence that they gave of telling trusted adults and institutional leaders about their abuse and of not being believed and, indeed, of being told to stay silent, of being told that they were wrong, of being told that they deserved what happened to them and of nothing being done. When nothing is done in the face of a child's disclosure of child sexual abuse, that lack of action subjects those children to ongoing abuse that we know has a lifelong impact on a child's physical, emotional, sexual and spiritual health and impacts on their sense of identity, their sense of self, their self-esteem and their ability to go on to form relationships of safety and trust. Telling someone who had the ability to act but did not is, I would argue, a violent violation of that trust and safety.

On 27 June 2018, I sat in the public gallery here with participants of Tuart Place and other survivors of childhood sexual abuse as Premier Mark McGowan delivered an apology on behalf of the state for the sexual abuse of children in Western Australian government institutions and other institutions of care. As I sat with those survivors, the power of that apology was palpable. I felt it in my body and in my heart, and I saw it in the tears of the survivors and I heard it in their thanks to the Premier and the minister following the apology. For those survivors, they had at long last been heard, seen and believed. Their pain, survival and resilience was recognised at long last. They all wish for child sexual abuse to never happen to another child, but when that does occur and when a child discloses, they wish for them to be heard. But beyond being heard, they wish for them to be believed and for that disclosure to be acted upon.

I was brought up to understand that the worst thing you could be in the face of injustice was a bystander. I teach my children to intervene when they see a wrong being done. Mandatory reporting is more than a legal responsibility; it is a moral one and a human one, and it is one that we must enact without fear or favour. To the participants of Tuart Place and all the survivors who gave evidence to the royal commission, I stand today to commend this bill to the house in your name and in your honour. Thank you.

MR D.J. KELLY (Bassendean — Minister for Water) [3.57 pm]: I rise to make a contribution on the Children and Community Services Amendment Bill 2021. Members will note that this bill came through this Parliament in the previous term and I was very supportive of it in my previous contribution. It was a great disappointment that we were not able to get this bill through the previous Parliament, but I am very pleased that the Minister for Community Services has managed to get this bill back on the notice paper and before Parliament so soon into the second term, because it is a very important bill. I am very pleased that the minister has worked so hard to ensure that as a state government we are able to support and implement all the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. This bill forms part of our implementation of those recommendations.

The bill has a number of aspects. I simply want to address the issue of mandatory reporting, which under this bill will extend the provisions to require ministers of religion to report information they have when they reasonably believe that a child has been abused.

This reform has been a long time coming. Most people would say it is fairly obvious that if any person is in possession of information that would lead them to believe a child has been abused, obviously, they should report it. Unfortunately, there is a whole history in this state and around the world of people not reporting abuse. This bill will extend the reporting requirements to ministers of religion. I know for some people that that is controversial. I simply say to them that the community has long since come to the view that there is not a special category for ministers of religion and that ministers of religion, like anybody else, should report. One of the groups that has been quite vocal in its opposition is the Catholic church through various bishops, but in particular the bishop of the Perth Archdiocese, who has been very vocal on this point.

I am conscious that we are approaching a certain time and it may be that I will complete my contribution when this matter is next before the house. As I said, I spoke on this bill in the last Parliament and if people read the *Hansard*,

they might conclude that this is a repetition of the previous speech, but, in my view, we can never talk about issues of child sexual abuse too much.

Debate adjourned, pursuant to standing orders.