

# STANDING COMMITTEE ON LEGISLATION

## CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019



TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 10 AUGUST 2020

### SESSION THREE

#### Members

Hon Dr Sally Talbot (Chair)  
Hon Nick Goiran (Deputy Chair)  
Hon Jacqui Boydell  
Hon Simon O'Brien  
Hon Pierre Yang

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**Hearing commenced at 12.01 pm**

**Most Reverend BARRY HICKEY**

**Emeritus Archbishop of Perth, sworn and examined:**

**Sister KERRY WILLISON**

**Director of Liturgy, Archdiocese of Perth, sworn and examined:**

**Most Rev. HICKEY:** Madam Chair, I apologise that I might not be able to hear everything, which is a pity, but I am here, nevertheless, to do my best. I had a car accident recently. I survived, but there was acute loss of hearing. Nevertheless, I hope that I can be heard, and I hope that I can hear you, and, if not, I have Sister Kerry, a friend of mine, but also director of our liturgy, who will clarify things that I cannot hear so I can properly respond. In addition, just to let you know that I am here not as a private citizen, but as the emeritus Catholic Archbishop of Perth, and I will be supporting many of the things or the submission of Archbishop Costelloe; we are one on many major points, but I will be bringing up one or two other points that he did not touch on.

**The CHAIR:** Okay. Thank you for making that clear. I am going to now formally open the hearing. As you know, we are going to swear you in, Sister Kerry, which may not have been your intention, but such are the ways of the Parliament, that it is easier for us if we swear you in.

**Sister WILLISON:** Sorry, can I just repeat that so that he knows. I am going to be sworn in, even though I am not giving any evidence. That is how Parliament works. Sorry; we may have to do a little bit of that, if you are okay.

**The CHAIR:** Yes, that is fine. I am certain that this is the right way of proceeding, in that case; that will make it much easier for everybody concerned.

On behalf of the committee, I would like to welcome you to the hearing, which is being broadcast. Before we go live, I would just like to remind you that if you have any private documents with you, keep them flat on the table, because otherwise the cameras will pick them up. Just keep them flat so they do not appear on the screen.

We can begin the broadcast now, thank you. I have to start by asking you three things. The first is, could you each please state your full name and the capacity in which you appear before the committee?

**Sister WILLISON:** My name is Sister Kerry Willison. I am a religious Sister of Mercy, I work for the Archdiocese of Perth and I am simply here today to support the archbishop in terms of clarifying that he hears the questions that are put to him. Archbishop, why are you here, your name?

**Most Rev. HICKEY:** My name is Barry James Hickey. I am the Emeritus Archbishop of Perth and I am here to present my ideas, my testimony, about the bill. I will be bringing up one or two points that Archbishop Costelloe, who was here before me, has not made, but in general terms I will be supporting him, but making some extra comments about matters that I think I very important in the progress of this bill.

**The CHAIR:** Thank you. Could you each now take either the oath or the affirmation?

[Witnesses took the oath.]

**The CHAIR:** Could you both confirm that you have read and understood the document you have signed, "Information for Witnesses"?

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**The WITNESSES:** I have.

**The CHAIR:** These proceedings are being recorded by Hansard and broadcast on the internet. Note that this broadcast will be available for viewing online after this hearing, and please advise the committee if you object to the broadcast being made available in this way. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record and try to talk into the microphones. I remind you that your transcript will be made public. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in private session. If the committee agrees with your request, any public and media in attendance will be excluded from the hearing. Until such time as a transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. That is for your own protection, not ours. Would you like to make an opening statement to the committee?

**Sister WILLISON:** Could I just repeat a couple of those things that you said, please.

**The CHAIR:** Yes, of course.

**Sister WILLISON:** Did you hear?

**Most Rev. HICKEY:** Yes, I believe I have heard.

**Sister WILLISON:** Have you an opening statement for the committee?

**Most Rev. HICKEY:** I have an opening statement. The committee has already received my submission to the Children's Services Amendment Bill. The main point of my submission is the inclusion of the words "religious confession" in the bill itself, as if the civil law had the power to force a change on a religious ritual central to a particular faith. I do not concede that. We must try to separate the spheres of church and state. The second point I wanted to make as I begin is I also assert that the intention of the amendment can be easily achieved by the inclusion of ministers of religion alongside others who are already in the act without any reference whatsoever to religious confession. I am willing to expand on that later if anyone wishes, but they were the two main points of my submission.

[12.10 pm]

**The CHAIR:** I think it would be appropriate for you to expand on those points because that goes to the heart of what we are interested in hearing. If you wanted to do that now, please go ahead.

**Sister WILLISON:** Expand on your submission now.

**Most Rev. HICKEY:** Yes, certainly. My submission says that I feel, first of all, the inclusion of religious confession in the bill itself is inappropriate. I do not think it is appropriate for a bill or an act of Parliament to put pressure on a church to change the nature of a fundamental religious ritual of the church, which confession is. Its proper name is the sacrament of penance. The laws surrounding it are very, very strict and, therefore, to break that because the state wants us to break that seal of confession, would put a major difficulty and problem in our way. We have to make a choice. I will expand on that later. It seems to me that over the course of history, the problems between church and state have had catastrophic and enormous consequences when there was not mutual agreement. We live in an age where church and state are becoming better separated—something I welcome. But then, so is the necessity of defining very clearly what is proper within the state's power and what is proper in the religious sphere so that the two can work harmoniously together.

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I would like to expand even further. Under my third point, unnecessarily, I state that the state has the power to require disclosure of sensitive matters, including the knowledge of grave suspicion of the sexual abuse of children. I accept that the state has that power and must exercise it. To achieve this in the matter of religious groups, if the bill only required ministers of religion to be included among those who already have an obligation to disclose such information, that would be a way of proceeding. It is not necessary, in my view, for the inclusion of ministers of religion to make any reference to religious confession or very private conversations or intense personal counselling. These are things that happen in the religious sphere. They are no business of the state, in my view. If ministers of religion are included among teachers and others who are already included in the bill, it is a way forward so that there will not be a clash of powers and interest in this bill. I strongly recommend that to the committee.

On that point there is something else I need to say. I discovered in the second reading speech of the minister a list of people who are already included in the bill and I was surprised. I spoke to a social worker recently who said that she is included in the community services act and has a mandatory duty to disclose information about sexual abuse of children should she come across it. But that is not in the minister's speech. I was surprised to find in the second reading that doctors, nurses, midwives, police officers, teachers and boarding inspectors have a duty to report, but there is no mention in that speech of social workers or psychologists. Given the huge influence of psychologists in much of the submissions made to the Royal Commission into Institutional Responses to Child Sexual Abuse, I was surprised that they are not included in this act. I think they should be. If they are not, if social workers are not and others who do receive confidential information, then I would think the intention of choosing only ministers of religion is pointed and discriminatory and makes the bill appear to be antagonistic to the Catholic Church and other churches that have this sacrament of confession.

I think that is all I want to say at the moment. If there are any questions, I will take them.

**The CHAIR:** Thank you, archbishop. Can I move on now to ask you to elaborate on your statement in your submission where you say that the Catholic archdiocese of Perth has cooperated with the recommendations of the royal commission? Can you give us some examples?

**Most Rev. HICKEY:** I tried to answer that question that was given to me. I can only comment really and honestly about the royal commission's recommendations in the matter of religious confession because there were pages and pages in the royal commission recommendations on that particular subject, and that is the one I concentrated on most. I know that the Catholic bishops of Australia have accepted all the recommendations of the royal commission regarding Catholic institutions except for the confessional secrets. That was the context when the royal commission called for a change of culture within the church and practices, and I was really referring, in my mind, to the broad acceptance by the Catholic bishops, and I am one with them, in accepting all the recommendations, but I concentrated mostly on the ones where there is a particular problem.

In Perth, under Archbishop Costelloe, there has been a change of culture—the royal commission called for that—a change of attitude towards victims of sexual abuse, to their right for compensation, to the right to be heard. Every parish now has safeguarding officers and anyone can approach them about any problem, not just to do with the clergy, if that ever happens, but to do with any problems that they might receive through family abuse or other ways. There are many other measures that have been taken by the archdiocese of Perth to change that internal culture. My submission, towards the end, says the culture has changed. It says that the mentality has changed. There is an openness and we probably do not even need this amendment in the bill at all because we are ready to do something entirely different in our attitude to this matter.

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I personally have taken two women to the police and accompanied them personally so they could tell their story to the police. That is an indication of a change of culture, I think, so I do support the intention of the bill, but not the way it is formulated. It seems to convey a mentality that the church is stuck in its old ways and has not changed; it has changed. That is the best I can do, Madam Chair.

[12.20 pm]

**The CHAIR:** This is another question of which we have given you some notice. If the reference to confession were to be removed, would you support clergy becoming mandatory reporters of child sexual abuse?

**Most Rev. HICKEY:** My answer is that I could live with it, but the consequences would be this: if the bill passes into an act as it is, or if it is only the inclusion of ministers of religion alongside others, I will be charged with an offence if I do not comply, and excommunicated if I do. So I think there is a problem there. I would live with it, but I cannot support it. I do not want to be excommunicated from the church; nor do I want to be in trouble with the law.

**The CHAIR:** If the provisions applied only to perpetrators rather than victims, would you support the measures then?

**Most Rev. HICKEY:** I think I would make the same answer. I cannot make a distinction about matters that I might hear in confession, but if I hear something out of confession, or if I can persuade people to come out of the sacrament and talk to me face-to-face, then I would not be supporting the bill; I would be supporting my commitment to report abuses of a sexual nature on children, for victims and perpetrators, in the same way. I would comply with the tone and aim of the bill, even if it is not part of the act. In that reply, I am saying that confession to me is sacred and what people tell me is sacred, and I will not divulge. But there are many things that can be done. I have done this on other matters. When people want to talk to me about particular circumstances that have a lot of impact, I would ask them: could I take the stole from my shoulders and speak to you confidentially outside confession? That has always worked with me. I have not done it about sexual abuse, because I do not receive those confessions. They do not seem to happen. So my answer is the same for perpetrators and victims—that I would come forward myself. That is different from supporting the bill.

**The CHAIR:** The committee has confirmed that the obligation to report only applies to a person talking about sexual abuse that is currently occurring; it does not apply to historical abuse. That is the same for all mandatory reporters. Does that at all change your view of the measures in the bill?

**Most Rev. HICKEY:** No, it does not. I cannot support the bill. Even if you listen to me and simply avoid religious confession and simply put ministers of religion into the bill, I cannot support it because I do not want to either be excommunicated or charged by the state, so that still leaves me with a big problem, but it is a better problem than having the bill interfere with the sacred rite.

**The CHAIR:** That brings me to the end of my questions. I think we can close the hearing. Would you like to make any further statement?

**Most Rev. HICKEY:** Yes, there was one other matter, and I think it was one of the questions. I was asked whether my concern about this distinction between church and state is shared by others, and I must say that I do not know. I mix in circles where people are often critical of the state overstepping the mark. They are not talking about confession here; they are talking about other matters. Once a law is passed, it is the law, it is respected and for many people it is the way they shape their behaviour—around the law. Laws have come in that have already disturbed the Catholic community and there may be others who would come in similarly. In those circles, there is a worry about the passing of laws on divorce, same-sex marriage and freedom of pornography. There is a fear that

Catholic schools may be forced to use materials that contradict Catholic teaching on marriage, sexuality and maybe some other matters. So there is a fear in some circles that on many matters, the state has already put pressure on churches to conform to things that they cannot conform to. On the matter of sexual abuse, I have not heard anyone say what I am saying today.

**The CHAIR:** Thank you very much for coming in today. With that, I will close the session and end the broadcast. A transcript of this hearing will be forwarded to you for correction. If you believe that corrections must be made because of typographical or transcription errors, please indicate these corrections on the transcript. Errors of fact or substance must be corrected in a formal letter to the committee. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Thanks very much for coming in and talking to us today; we really appreciate it.

**Most Rev. HICKEY:** Thank you very much for the opportunity, and thank you for listening to me.

**Hearing concluded at 12.28 pm**

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