

Bill introduced on motion by Mr Barry O'Farrell, read a first time and printed.

Second Reading

Mr BARRY O'FARRELL (Ku-ring-gai—Premier, and Minister for Western Sydney) [3.15 p.m.]: I move:

That this bill be now read a second time.

The purpose of the Royal Commissions Amendment Bill 2013 is to facilitate the work of the Royal Commission into Institutional Responses to Child Sexual Abuse. As we know, the royal commission was established by the Commonwealth Governor-General on 11 January 2013. On 25 January 2013 the New South Wales Governor issued the New South Wales Letters Patent in support of the royal commission, which mirror the Commonwealth Letters Patent and appoint the same six commissioners, led by the Hon. Justice Peter McClellan of the New South Wales Court of Appeal. The New South Wales Government strongly supports the work of the royal commission, which will be based in Sydney.

Only a national inquiry can gather all the relevant information about institutions that operate across State and Territory borders. I commend the member for Dubbo for his early initiative in calling for a national inquiry. Only a national inquiry can hear from those affected by child sexual abuse from all around the country. The terms of reference of the royal commission require the commissioners to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters. This is to include, in particular, what institutions and governments should do to better protect children against sexual abuse in institutional contexts in the future. and what institutions and governments should do to address or alleviate the impacts of past and future child sexual abuse in that institutional context.

The terms of reference recognise the seriousness of child sexual abuse and provide the royal commission with the scope to look at any public, private or non-government organisation involved with children, including those that are no longer operating. I have told the Prime Minister that the royal commission will have the full support and cooperation of New South Wales government agencies. The bill will provide further support to the work of the royal commission. The Commonwealth Government has introduced amendments to its legislation to allow one or more of the six royal commissioners to hold separate hearings. This will enable the royal commission to conduct hearings and collect information more efficiently.

The bill, like the Commonwealth amendments, will allow the chairperson of a multiple-member royal commission to authorise one or more individual commissioners to sit and hold separate hearings. The amendments will ensure that the powers of the national royal commission under the amended Commonwealth legislation will also be available to it should it need to rely on its powers under the New South Wales Letters Patent. Currently under the New South Wales Royal Commissions Act 1923, certain powers and functions can be exercised only by the chairperson or a sole commissioner. Those powers include the power to grant rights of appearance at the inquiry, the power to issue a summons to a witness to attend and give evidence or to provide documents to the inquiry, and the power to excuse or release

a person from attendance at the inquiry.

There are also other special powers that can only be exercised by a chairperson or sole commissioner if they have prescribed legal qualifications. These special powers, contained in division 2 of part 2 of the Royal Commissions Act 1923, include the power to issue a warrant to apprehend a witness who failed to answer a summons, powers relating to holding a person in contempt of a royal commission and the power to override privileges, such as a witness's privilege against self-incrimination and legal professional privilege. The bill will allow the chairperson to authorise the other commissioners to exercise the chairperson's powers. However, only a commissioner with the required legal qualifications will be able to exercise the special powers. The bill will also amend the legal qualifications that a commissioner is required to hold before being able to exercise the special powers.

In order to exercise the special powers, a commissioner must be a current judge of the High Court, the Supreme Court or the Federal Court, or a legal practitioner of at least seven years standing. The bill will change the legal qualifications so that they are consistent with those that apply to a person who can be appointed as a commissioner for a special commission of inquiry or for the standing commissions, including the Independent Commission Against Corruption. The amendments will enable both current and former judges to exercise the special powers if appointed a royal commissioner. In addition, senior lawyers who are eligible to be appointed as a judge will also be able to exercise the special powers if the letters patent declare that the person may exercise those powers.

Finally, the bill will amend the Royal Commissions Act 1923 and the Special Commissions of Inquiry Act 1983 to clarify that persons who voluntarily provide documents, records or other things to a royal commission or special commission of inquiry have the same protections as a witness appearing before a commission. In particular, the person will have the same protection and be subject to the same liabilities in any civil or criminal proceeding as a witness in any case tried in the Supreme Court. The Australian Law Reform Commission, in its 2009 report, considered the protections available to those who supply information to Commonwealth inquiries, including royal commissioners. The commission stated in its report that it is:

... desirable to extend protection from legal liability to all those who supply information to inquiries, whether they are required to attend a hearing or otherwise. There is no reason to distinguish between the protection of witnesses summoned to a hearing, and others providing information in less formal ways. Both need to be able to provide information fully and frankly to an inquiry, without fear of legal action in relation to the information provided. Further, the extension of such protection will enable inquiries to proceed more informally ...

The bill will ensure that the protections for persons providing information to a New South Wales commission are the same whether the person provides the information in person, in writing, voluntarily or in response to a summons. The New South Wales Government consulted closely with the royal commission on this bill. The separate New South Wales Special Commission of Inquiry concerning the investigation of certain child sexual abuse allegations in the Hunter region has been underway since November last year and will continue in its important work, notwithstanding the establishment of the national royal commission. The commissioner, Ms Margaret Cunneen, SC, will be able to enter into

arrangements with the national royal commission to share relevant information. Ms Cunneen is due to report her findings on or before 30 September 2013. The national royal commission is due to provide an interim report by 30 June next year and its final report by 31 December 2015. I encourage anyone with relevant information to contact the national royal commission or the New South Wales special commission of inquiry so that their voices may be heard. I commend the bill to the House.

Debate adjourned on motion by Mr John Robertson and set down as an order of the day for a future day.