

# SPEECH



## **BALLARAT SPEECH: TAKING RESPONSIBILITY**

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### **Introduction**

Thank you for welcoming me here tonight.

As has happened in other parts of the world, including Ireland, the USA and in Canada, Australian society is taking extraordinary steps to bring the Catholic Church and other institutions to account for the destruction caused by sexual abuse of children and young people.

Running concurrently, we have the recently concluded Victorian Parliamentary Inquiry, the Federal Government's McClellan Royal Commission and the inquiry being conducted in NSW into abuse in the Diocese of Maitland and Newcastle.

The Church is at a critical juncture.

It can choose to "manage through" these issues, or it can seek to begin the huge task of restoring trust with action and authenticity.

So in talking about the devastating tragedy that is child sexual abuse, I want to focus tonight on accountability, *Towards Healing* and what this means for an emerging Church.

### **Victorian Parliamentary Inquiry**

Last week, the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations released its report called *Betrayal of Trust*.

It made recommendations which, if implemented, will have a dramatic impact on the way institutions, including the Catholic Church, operate.

The recommendations are aimed at providing greater protection for children in schools, churches, welfare organisations and other institutions across the state.

The Catholic Church in Victoria endorses the Inquiry's key recommendations, which cover five important areas:

- changes to the criminal law;
- easier access to the civil justice system;
- an independent, alternative avenue for justice;
- greater independent monitoring and scrutiny of organisations; and
- further improvements to prevention systems and processes.

The Inquiry not only looked at the Catholic Church, but it was particularly critical of Church leaders and our history of dealing with child sexual abuse.

It didn't hold back with its findings that the Church had minimised, trivialised and hidden the problem, and failed to hold perpetrators to account.

Archbishop Hart welcomed the report saying it is his hope the Inquiry, and its recommendations, will help the healing of those who have been abused, will enhance the care of victims and their families, and strengthen the preventative measures now in place.

Cardinal Pell said:

“The Report is an important document and it offers valuable recommendations to ensure that crimes are reported, children and vulnerable people are better protected, and those who have been hurt can more easily seek justice.”

Some of the strongest criticisms of the Church came, naturally, from the victims of clerical abuse and their supporters in advocacy groups.

Many see this report as a watershed in the battle for victims to be heard and for the truth to be revealed.

Many see it as the start of non-government institutions, particularly the Catholic Church, being held to account.

Many see that at long last, momentum for major change and reform is building...

...change which should see the abuse of children in schools, welfare organisations, sporting clubs and churches a thing of the past.

What is loud and clear from the pages of the report and what victims for decades have been pleading for, is that the Church takes responsibility.

That means takes action.

There have been many heinous, despicable crimes committed by people in the Church.

A large number have been brought to justice. Others have covered up those crimes, put the Church's interests before those of victims' and compounded their suffering.

As the community of believers who make up the Church, we were not responsible for the crimes and cover ups, but we are now responsible for how we react to them.

We are responsible for how we respond to the victims, how we deal with the perpetrators, how we push for reform and cultural change, and how we talk about sexual abuse in the Church with our friends, our families, our colleagues.

We might not be responsible for the past, but we are most definitely responsible for our future.

We will be judged on how we act now.

We can no longer stand by. We, all of us, need to take responsibility for the Church that emerges.

Some of us will actively push for reform in the Church. Some will work with victims. Some will advocate within their own communities. Some will invoke the power of prayer.

If we all do something in the spirit of the Gospel, we will be heading in the right direction.

### **The Royal Commission**

The Victorian Inquiry is the first to report of the three current investigations.

The others, an inquiry into the Maitland and Newcastle diocese and the national Royal Commission are also both looking very closely at how the Catholic Church has responded to sexual abuse of children by priests, religious and others in Church institutions.

In less than three weeks, the Catholic Church will be at the centre of the Royal Commission's investigations.

We know from reports some 700 victims have already spoken with one of the six commissioners in private sessions. There are another 500 people waiting for a meeting.

This is growing by around 10 people a day.

During the public hearings, victims will come before the Commission and tell of their abuse and betrayal.

Their testimony will tear at the hearts of both Catholics and non-Catholics alike.

They will be widely reported across our newspapers, radios and TVs, across the internet and social media.

At this time the Commission will be looking specifically at the Church's victims' reparation and pastoral scheme called *Towards Healing*.

Church leaders and administrators will be called to answer questions about how they handled complaints of child sexual abuse within Church institutions.

Those who provided advice will also come under scrutiny.

All will be subject to forensic and systematic questioning.

The hearing will go on for two weeks from December 9 and most likely flow over into next year.

The Commissioners will focus on four *Towards Healing* case studies and the way in which the victims in each case were treated.

One case deals with a young girl who was abused in the late 70s and early 80s by a priest who has since died.

Two other cases deal with the abuse of Catholic schoolboys in the 1970s.

A fourth case deals with a victim who was one of a number of children abused in the late 1960s by a priest.

The Commission will focus on the experience of victims, and on what the Church did to respond to the complaints when they were made.

Catholics around the country will be disheartened and disillusioned by what they hear.

Community disgust and outrage will again be unleashed.

Many people will be very angry and will ask how could this happen? They, like everyone else, will want answers.

The Royal Commission hearing next month is just the start.

It is likely to go on for at least three years, perhaps five, maybe longer.

And we have a fair idea, given the issues papers that have already been released by the Commission and from the list of subjects which it plans to look at, that the Catholic Church will continue to reappear at the hearings.

But this Royal Commission isn't just about the Catholic Church.

Already the Commission has looked at the Scouts and the YMCA. The Anglican Church and its children's home in Lismore are currently the focus of hearings.

Early in the new year, the Commission has signalled it will look at the Salvation Army and again at one or more institutions within the Catholic Church.

I say this not to minimise the extent or culpability of the Church, but to indicate that the Commission is not an exercise in 'getting the Catholics'.

We are a significant focus of the Royal Commission because we have a shameful history of child sexual abuse within some of our institutions.

And tragically, a significant chapter of this history took place here in Ballarat where children aged as young as five were abused by some of Australia's most notorious clerical paedophiles in the 1970s.

We must not go into a defensive mode that prevents us from seeing things as they really are.

If we do, we lose this once in a lifetime opportunity to examine our consciences, to take responsibility, to do better, to reform, to hear and heed the victims and address a scandal that has shadowed the Church and driven so many people from it for so long.

As you may know, the Truth Justice and Healing Council has been set up to represent the many entities which make up the Catholic Church in Australia at the Royal Commission and set an agenda for reform.

### **Compensation**

One of the very significant issues which is constantly highlighted when anyone talks about the *Towards Healing* process is reparation.

The two main criticisms in relation to payments made in association with *Towards Healing* are that they are too low and inconsistent.

But what is often misunderstood about *Towards Healing* is that it was never intended as a scheme for financial compensation.

No guidelines or protocols have ever existed that define the amount of reparation, or the circumstances in which a payment should be made.

The *Towards Healing* process is, at its heart pastoral, designed to provide care for the individual and assistance that meets individual circumstances and needs.

This can include: ongoing counselling or therapy, the payment of medical or educational expenses, and assistance with finding employment.

Under *Towards Healing*, any payments are made by way of reparation, to try to help victims, as far as possible, survive the trauma. These payments are not in the nature of damages.

It is reasonable to point out that many hundreds of victims have received reparation payments after going through *Towards Healing* that they might not have received from the Courts because of inflexibility and other legal strictures.

But over the years the pastoral has become entangled with the legal.

This has created in some cases, an adversarial environment. It has led to a very real misunderstanding of the essentially pastoral basis of *Towards Healing*.

In many instances this has resulted in mistrust, questions about the Church's sincerity and to offers of pastoral help through *Towards Healing* being rejected.

The fact is that less than half of sexual abuse claimants against the Church now wish to engage with *Towards Healing*. Many victims are seeking compensation, rather than reparation, an outcome for which *Towards Healing* was not primarily designed.

It is now clearer than ever that the time has come for the Church to hand over the determination of victim's compensation to an independent process.

In our *Towards Healing* submission to the Royal Commission and as part of the Council's reform agenda, we are recommending a national compensation scheme, independent of the Church that would determine payments.

It should be funded by those responsible for child abuse, including government, welfare and religious institutions such as the Catholic Church.

There should be no compensation caps.

*Towards Healing* would continue to provide a pastoral response and life-long support to victims, but purely financial compensation payments would be dealt with under this national, independent scheme, outside the control or influence of the Church.

An uncapped, national compensation scheme seems to have some support from victims and their advocacy groups.

Significantly, the Victorian Inquiry has recommended the State Government examine the establishment of a specific compensation scheme for victims of child sex abuse, funded by institutions.

This is an important initiative, supported by Church leaders in Victoria.

A few days before the release of the Victorian report Justice McClellan flagged his interest in examining whether a general redress scheme should be established across the country.

This is consistent with the Council's position outlined in our submission to the Royal Commission.

To that end, this week I have written to the Attorneys-General of the Commonwealth, State and Territory Governments calling on them to consider a national compensation framework for victims of child sexual abuse.

This would involve uniform, state-based schemes which would deliver consistent investigative powers and compensation payments for victims.

The Victorian initiative could well fit within this framework.

From our perspective, this national scheme would seem to be in the long-term interest of victims, many of whom have faced serious obstacles through having to litigate their claims in court.

For individuals, litigation is almost inevitably a stressful process.

It is particularly ill-suited to the resolution of claims of sexual abuse.

It is public, which in itself can compound the damage victims have suffered.

It is adversarial and of its nature combative.

There are numerous legal obstacles for victims to overcome, such as statutes of limitation, reaching standards of proof, and issues of vicarious liability.

Victims have to give evidence and endure cross-examination about events that may have occurred long ago, and where often, because of the nature of the crime, they cannot be supported by other witnesses.

Victims then have to demonstrate a causal connection between the abuse and their current circumstances.

In the case of the Catholic Church, victims also confront the complexities of the Church's legal and asset structure.

All of this reflects the legal system to which we are all subject. In myriad ways it serves its purpose well, but it is not a suitable forum for the resolution of the claims with which we are concerned here.

What does come into play here, however, are two very significant questions our Church must face:

What is the moral responsibility of the Church?, and

What is the best way to address the long-term needs of victims?

For an organisation like the Church, founded on Gospel values, legal responsibility and moral responsibility may not always deliver the same answer.

Many ask how the Church, during the Towards Healing process, can concede to a victim that abuse has taken place, but then argue about liability for the same abuse in subsequent Court proceedings.

It raises the question: does the Catholic Church have a moral responsibility to behave differently from other defendants if the case goes to Court? Shouldn't it behave as a model litigant?

Should the Church, because of its special nature, make concessions to plaintiffs that defendants would not normally make?

This is a difficult issue.

This is not just a purely a legal issue. It is also a public policy issue about how people who have been sexually abused in the the past should be justly treated.

However, we need to have this debate. We don't shy from it.

Victims can never recover their innocence. But a combination of pastoral support and financial compensation is the least that can be offered to them.

For most, one without the other is inadequate. Each process, on its own, does not usually address all of the needs of the victim.

The issue is not whether the legal system should be modified or whether concessions that are not normally made should be made, but rather, whether the court process is a satisfactory way for victims' claims to be resolved.

The legal process should always be available for victims if they wish to take it. But a national victims' compensation scheme, supplemented by a separate process of pastoral support has the potential to offer better outcomes.

### **Reform agenda**

The final significant issue I would like to mention is the Church's reform agenda.

In our submissions to the Royal Commission, the Truth Justice and Healing Council is building the case and the options for reforms to the way the Church addresses sexual abuse.

In the *Towards Healing* submission, the Council proposed a reform agenda that in my view is a significant overhaul of the Church's approach to clerical sexual abuse in its history in Australia.

The proposals recognise that we must do better when we are engaging with victims of sexual abuse and as we work to make sure our institutions are safe for children.

The proposals include:

First: the appointment of an independent body to determine payments to victims. This would separate the pastoral responses in *Towards Healing* from the determination of financial compensation payments and it would be rolled into a national scheme if and when it is established.

Second: the appointment of lay and independent experts to strengthen the Church's National Committee of Professional Standards.

Third: the introduction of an independent national corporate entity to develop and administer national child protection standards. It would monitor adherence to these standards and publicly report on compliance.

Fourth: the introduction of greater transparency through public reporting by both the new corporate entity and the *Towards Healing* process.

In our other submissions to the Commission, the Council has also recommended:

A national watchdog to ensure governments, churches and other institutions are following child-safe practices,

Mandatory accreditation and data collection by an independent national body, to cover all institutions working with children, and

A national approach to screening people who work with children which would provide better protection, increase transparency and consistency across jurisdictions and help close loopholes that currently pose a threat to the safety of children.

These proposals and recommendations have either been fully endorsed by the Church leadership or have been endorsed for further development by the Council.

They represent a way forward for the Church and will be built on as the Royal Commission progresses and as the work of the Council continues.

I truly believe these proposed reforms, and the reforms the Council will continue to develop, offer a beacon of light and hope for victims of clerical sex abuse.

Of course, we will still be subject to cynicism and criticism when we discuss reform, and in view of our history, I understand why.

It will take a long time to rebuild trust and to rebuild respect.

For many it may be too late.

It will only be by the Church's actions – not by its rhetoric, that we can make claim to building a better future.

When he opened the Royal Commission, Justice McClellan made it clear that the Commission would 'bear witness' to those who had been abused.

Hopefully, people damaged by abuse can find in the Royal Commission process, recognition of what has happened, an affirmation of their experience, and an acknowledgement of the support they need and deserve.

I hope they also find that institutions, like the Church, accept responsibility and that this is demonstrated through their actions.

There is no better way for us all to bear witness to what has happened.

### **Our Commitment**

In conclusion, I would like to thank you all for coming this evening.

It is not by chance that I have made tonight's speech here in Ballarat where some of the worst instances of abuse have occurred.

All of us within the Catholic Church wish we could undo what has been done.

We wish we could have spared so many people the tragedy and suffering they have endured.

We all wish we had been alert to the risks, understood the impact and acted sooner with compassion and generosity.

All we can do now is to move wholeheartedly to make amends as best we can, to be truly sorry, to ask forgiveness and to change.

Again, in our submission on *Towards Healing*, the leaders of the Catholic Church in Australia made a commitment to victims and the broader community.

It is on the very first page of the 200 page document. I won't read it to you but I have brought along copies if anyone would like to see it.

It is the first time the entire leadership of the Church – leaders of dioceses and religious orders – have jointly put their names to an unequivocal, unqualified statement of apology and regret.

The statement acknowledges the damage sexual abuse has done to victims.

It acknowledges past failings including cover-ups, failures of leadership and the failure to believe victims.

It also provides a commitment to work towards redressing past wrongs, listening to and hearing from victims, putting victims' needs first, and doing everything possible to ensure a safer future for children.

We cannot change this shameful past.

But we can ensure a better future for victims, their families and everyone within the Church that emerges from this shameful period in our history.

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