Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 8 November 2016

LIMITATIONS OF ACTIONS (INSTITUTIONAL CHILD SEXUAL ABUSE) AND OTHER LEGISLATION AMENDMENT BILL; LIMITATION OF ACTIONS AND OTHER LEGISLATION (CHILD ABUSE CIVIL PROCEEDINGS) AMENDMENT BILL

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (8.19 pm), in reply: I thank all members for their contributions to the debate of the government's bill and acknowledge the member for Cairns and his private member's bill. I again thank the Legal Affairs and Community Safety Committee for its consideration of the bills and all of the survivors, witnesses and stakeholders who have contributed to this discussion through the parliamentary committee process and more broadly.

As I said in my second reading speech and has been repeated by many on both sides of the House, the government's bill provides for four key amendments: firstly, removing the limitation period for litigation regarding child sexual abuse in relation to institutions; secondly, introducing the ability to have class actions in Queensland; thirdly, dealing with the long-term sustainability of funding that was previously provided for under LPITAF; and, fourthly, to permanently embed justices of the peace in QCAT.

I am very pleased that overall we have had a very respectful debate across the chamber on this issue. I am not surprised. I would hope that is the way all members would approach this. It is certainly pleasing that that is the way the debate has gone.

The opposition has circulated amendments and will be moving those shortly. The first amendment goes to child sexual abuse in all settings—moving it beyond institutions to non-institutions. As stated in my second reading speech, the government will not be opposing that amendment on the basis that it very much reflects the submissions put to the parliamentary committee and also the government's issues paper. We have said that our issues paper obviously goes much further than that. In fact, our issues paper touches on many of the issues raised by the member for Cairns when he talks about the broader scope in New South Wales and Victorian legislation. In fact, our issues paper goes even further and seeks to have the discussion about very important recommendations that come out of the royal commission in relation to institutions and their liability, and trusts and who the respective respondents are to those proceedings. The government will continue with progressing those discussions under its issues paper, because we believe that they are important issues to look at further to ensure we are dealing with those important elements that the royal commission has raised and also look more broadly at what other jurisdictions have done.

I raise one point in relation to the member for Cairns. The member for Cairns raised the issue that by this parliament agreeing to have the limitation of actions removed in relation to child sexual abuse and not more broadly we are discriminating against other children who have suffered other abuse. I understand the argument he puts, but the same argument can be put in relation to all of these

provisions, including the private member's bill. Someone who is 17 years old and 11 months who suffers child abuse would be eligible to access the type of redress that the member for Cairns has outlined in his private member's bill, but someone who is 18 years and one day would not be eligible. Unfortunately, as is the nature of these things, a line is drawn at some point. No-one in this parliament is proposing that we should not have limitation of actions at all. They serve an important purpose. I know that the member for Mansfield has mentioned that and I mentioned that in my second reading speech. I understand that survivors would like to see this go further. We as a parliament have a responsibility to do so in a measured and considered way, making sure that all circumstances have been considered. We believe that this is a very important first step, and we are committed to working with stakeholders in relation to those other important issues that are highlighted in our issues paper.

In relation to the other amendment flagged by the opposition, which has to do with deeds, again, I can understand the merit of the argument. However, the detail of the proposed amendment has only been seen this afternoon. It is still extremely broad, when we talk about giving the courts the power to reopen and, as such, void settlement deeds that parties have entered into, believing that they were full and final settlement, on the basis of what the court considers to be just and reasonable. We do not know what that scope looks like. We do not know what that measurement is until the court starts considering these.

I do have concerns—I am sure the member for Mansfield may touch on these when he moves the amendments—about insurance implications. It is something to be mindful of, particularly when we are talking about smaller community organisations and small sporting clubs in our communities. As I understand it, the proposed amendment is to actually void settlements in which the insurance company has paid out. Insurance companies may very well be responsible for paying again, on top of a payment already made in a deed. That may very well lead to significant increases in insurance premiums. When it comes to our small sporting organisations and our small community groups, we know that insurance is often one of the largest costs they have. Seeing that cost go up significantly could have a big impact. Alternatively, insurance companies may not want to insure because the liability is just too great. The risk is that, even if they settle, a government could come back in 10 years time and say, 'Now we are going to reopen the past 10 years of deeds again.' We do believe that a lot more work needs to be done on that and further explanation needs to be given to satisfy this whole parliament that this is something that will not have unintended consequences.

We would be the first jurisdiction in the country to do this. It does set a significant precedent, that a parliament is willing to give the courts the very wide discretion to reopen and void deeds. My concern is that institutions may not want to enter into settlements into the future if they believe that those deeds are not going to be full and final settlement, that in fact the courts can at any time in the future reopen those based on a parliament already showing once that they are willing to reopen. Why would they not do it again in a future inquiry? I would love to think there will never again be a need for a royal commission into child sexual abuse, but we have had the Forde redress scheme in the past in this state and we have the royal commission into child sexual abuse. None of us can stand here and say that in 20 years time we will not have a similar inquiry. I hope that is not the case. For that reason, we would still be opposing the amendment being put forward by the opposition.

Again, I thank all members who contributed to the debate. I hope out of today that survivors and stakeholders will go away not looking at what they did not get out of this process but instead looking at what this parliament is doing today—that is, removing a very significant barrier that has been there for many years that has stopped victims of child sexual abuse taking their claims to the court and having them tested. Today this parliament will remove, once and for all, that barrier and will fulfil our obligations in delivering on those recommendations from the royal commission. It is something we should be proud of. I commend the bill to the House.