




Speech By
Hon. Tim Nicholls

MEMBER FOR CLAYFIELD

Record of Proceedings, 14 March 2025

TRUSTS BILL

 **Hon. TJ NICHOLLS** (Clayfield—LNP) (Minister for Health and Ambulance Services) (8.44 pm): Can I just say in respect to the contribution from the member for Buderim rarely have I heard such an erudite and completely irrelevant contribution to a bill in the House, and noting his comments early on in the piece in respect to not being alive in 1974 and some nasty aspersions about me, like a good wine, I only get better with age. That is something we can only hope and pray for the member for Buderim.

Ms GRACE: Mr Speaker, I rise to a point of order on the point of relevance. You just said the other was not relevant. There is now relevance to the legislation? But a trusts bill, by his own words? Bring him back to the bill.

Mr SPEAKER: The point of order is on relevance. I note that there is only 30 seconds so far on the clock. I know your love for these sort of technical bills. I am sure you have much to contribute, Minister, so bring it back to the bill.

Mr NICHOLLS: Thank you, Mr Speaker. As I say, it is a wideranging debate on a piece of legislation that affects so many people in so many ways. In terms of relevance, at least we are speaking on the bill. When it comes to relevance, if you want to be relevant, at least do the work. At least turn up and talk about the Trusts Bill which, for a wasted decade, the Labor Party sat on. I know that because at estimates, for the last four years, I have been asking, 'When is the Trusts Bill going to be presented?' Lazy Labor! Not only was the former government the most well-resourced and laziest government, they are now the most well-resourced and laziest opposition, continuing a tradition that goes back over a decade when they could not even be bothered speaking to a budget bill in 2012. They did not even turn up. On a Friday afternoon when the call went up, where were they? Missing in action, and they are missing in action this afternoon. No one wants to speak on it; it is all too hard. It is a Friday and, 'Come on, comrade, let's go down to the Workers' Club.' That is what they want to do—over to South Brisbane straightaway and mingle with their mates at the CFMEU.

Mr SPEAKER: Minister, I ask you to focus on the bill.

Mr NICHOLLS: Thank you, Mr Speaker. The Trusts Bill, as I say, affects an enormous amount of public commercial life in this state. As we already know, there are many in this place who have personal and family trusts—legitimate vehicles set up over periods of time. In fact, I myself have a trust. It is an inoperative trust and has been for many years, but many people have them. Trusts are set up under wills as well. Testamentary trusts are part and parcel of the law of trusts.

Trusts, of course, are an institution that goes back to the medieval times. When the knights shot off on Crusades in the defence of Christendom, the trusts were set up because the knights would go over—

An opposition member interjected.

Mr NICHOLLS: You cannot get more relevant. When the knights shot off overseas leaving their wives and families behind, of course they needed to have a provision for the protection of their property. In order to do that, the courts of chancery established the use of trusts. The trust would protect the property so that the widow of the knight who did not come back from the Crusades in the Holy Land would not be disenfranchised in the times when wives and children could not hold property in their own name. Thankfully, that is long gone. The law of the use of trusts evolved from about the 11th century onwards to protect property and ensure it could pass on to the heirs of the family, and it has continued ever since.

The law of trusts has evolved over the years and has become a much widely used vehicle for ensuring the protection of assets, the protection of property, the devolution of assets amongst siblings and beneficiaries to provide for the education of families, of children, of those who established the trusts and otherwise to benefit people over many years. It is used in commerce all the time. Property trusts are set up all the time. In fact, shopping centres are owned by property trusts. Investment vehicles are owned by property trusts. They are a means of distributing income amongst the beneficiaries of those trusts while holding the assets safely in security.

If you have superannuation you have a trust. That is how important the law of trusts is. To think that something of such magnitude and something of such importance to the undertakings of commerce in this state has been dismissed by those on the other side, with one speech of less than 10 minutes, shows their lack of care and consideration in relation to how things are meant to work. This is compounded by the fact that it took 10 years for them to get a bill into this House.

As I said, trusts have been around for the better part of 1,000 years. The law of trusts has evolved over that time, but in Queensland it has not been modernised for a lengthy period of time—since the 1970s and before that. The 1970s amendment really just repeated and replaced the language of the 18th and 19th centuries. There are still rules in there in relation to how trusts operate which are antiquated.

Mrs Gerber interjected.

Mr NICHOLLS: I heard the member for Currumbin say, 'Tell us about it.' Obviously, the member of Currumbin has studied law and I am sure did very well in the law of trusts. She will understand in relation to the law of trusts the rule against perpetuities. No doubt the member for Currumbin will make a contribution with respect to the rule against perpetuities that held that a trust cannot last forever because of the precepts of the English law that say you cannot tie something up forever. The rule of perpetuities meant that trusts could not exist beyond the life of the last remaining heir of King George III.

Mrs Gerber interjected.

Mr NICHOLLS: Exactly right. Well done, member for Currumbin. You have done exceptionally well. This bill deals with the rule against perpetuities and makes it a much shorter time. It makes it about 111 years, if I understand it correctly. I may be subject to correction. It modifies some of the antiquated and ancient rules in relation to the operation of trusts.

The objective of the Trusts Bill brought in by our dynamic and hardworking Attorney-General is to replace the act. In less time than it takes a Labor Party member to change factions—let's face it, that does not take long, if I am to believe what is written in the *Australian*—the Attorney-General has introduced a Trusts Bill that modernises the last 50 years of legislation here in Queensland in relation to it. It is broadly in accordance with the recommendations of the Queensland Law Reform Commission, which undertook a very extensive review and delivered its report in December 2013.

The bill generally adopts the Queensland Law Reform Commission's review recommendations and modernises and simplifies trust legislation for Queensland. It does so by repealing provisions that are obsolete or no longer appropriate in modern trust legislation—rule against perpetuities, member for Currumbin—or confers powers that are no longer needed in light of the new provisions in the bill. It uses modernised language that people can understand. It modernises trustees' duties and powers. It confers on trustees all of the powers of an absolute owner of the trust property, subject to the trustee's duties to account and be responsible to the beneficiaries and to the law. It states trustees' minimum or core duties that apply in administering a trust including a general duty of care, a duty to act honestly and in good faith—something that would be absent from those on the other side—and a duty to keep trust accounts and make them available to beneficiaries on request so that the beneficiaries have an opportunity to scrutinise the actions of the trustee, who actually only holds the property on behalf of those beneficiaries.

The bill allows the delegation of authority by conferring a new power for a trustee to ask for another person to exercise those investment powers, but it does limit that power to delegate those powers, authorities and discretions in the trustee to 12 months duration. So it allows it to occur but it provides for review of it to occur after 12 months. It does not affect any power of appropriation conferred under the trust instrument—the trust deed, usually—and the settlor may specify greater or additional powers in the trust instrument to those specified in the bill. In short, it does modernise the provisions to reflect modern community standards. It makes an essential instrument in modern commercial life a much more relevant document, a much more easily understood document and a document that will deliver clarity and certainty for those undertaking commerce in this great state of ours.

Under the LNP government and its fresh start, there will be many more people getting involved, investing in this state and doing what we need them to do: employing people, investing their funds and acting responsibly as contributors to the wealth, employment and enjoyment of this great state. There is no reason to stand in the way of these long overdue reforms that have been sat on by the Labor Party for so long and are so important for Queenslanders. The only problem is: something of such importance does deserve debate and scrutiny. Unfortunately, yet again, the LNP has to do the work that those opposite failed to do in explaining it, scrutinising it and delivering on the reforms that Labor could not do in the better part of a decade.