NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE (COMMONWEALTH POWERS) BILL 2018

Second Reading

Resumed from 22 August 2018.

DR M.D. NAHAN (Riverton — Leader of the Opposition) [12.18 pm]: Although I am not the lead speaker for the opposition, I would like to make a few comments on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. Firstly, the opposition supports the legislation in full and congratulates the commonwealth for its leadership on this matter. This legislation essentially brings the matter into the state's remit and allows the state to join a national scheme, which was needed. This bill is an offshoot and a response to the Royal Commission into Institutional Responses to Child Sexual Abuse, which proceeded for five years and found many, many cases of systemic institutional abuse of children. It is more harrowing because many of those institutions were set up specifically to safeguard, take care of, educate and nurture our children, but, instead, individuals within those institutions were allowed to do the opposite. Some of those institutions are not secular groups; many of them are church-based and faith-based—organisations that exist to provide nurture from a higher being. That this happened systemically, over decades, is one of the greatest blemishes on our society. Many of us who as young children saw this happening were scarred; not so much me, but others. Many people who, like me, went to a boarding school, saw this happening over decades. Thankfully, the government set up the Royal Commission into Institutional Responses to Child Sexual Abuse to tackle the issue head-on. It spent a lot of money over five years. It required the evidence to tackle and peer through many of the institutional barriers that protected the abusers for decade after decade. Indeed, it had to expose systemic cover-ups and protection of abusers.

To return to the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018, these institutions were established, and these people were placed in them, to protect and nurture our children, but they did the opposite; they abused them in the most terrible manner. As we know and as the royal commission has outlined in gruesome detail, this abuse has affected many of these people throughout their lives, and it is often passed on through generations because people who are so affected often in turn become abusive to their families, their children and others. It is systematic. We as a state and as a nation, and our institutions, must do something about this—not only to stop it from happening in the future, but also to go back and provide redress. We owe it to them, and that is what this scheme does.

The royal commission often had to peer through the legal protections that had been built up to protect the institutions that, in turn, protected the abusers. Those institutions have to be part of the redress scheme. They have accumulated a great many assets under the protection of law—for instance, lower tax rates than others—and they have accumulated large asset bases for their churches or institutions, and they need to participate in this redress scheme. For someone who has gone through those institutions, I know it will not be easy to peel away those protections, but that is what must be done.

I congratulate the commonwealth government for taking on this issue, and the state government for participating in this redress scheme. I will not go through the details of the scheme, but it is one that we need to join. It will be expensive; exactly how much it will be, I do not know—perhaps the Attorney General can give us some indication—but it is not a matter of money. It is a matter of redressing a clear wrong that has been done in both state and other institutions. Redress is absolutely necessary. It is not only an issue of fairness, although that is part of it, but also one of helping people get on with their lives and perhaps helping to stop the bleeding, the pain and the suffering they have endured up until now. But the most important part of this process is to not allow this type of abuse to continue to happen, or to happen again. That is simply not part of a humane society.

The opposition fully supports the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. When the government first announced that Western Australia would be joining the scheme, it tied it to the sale of an asset, Landgate. We do not accept that. Our view is that we should join the redress scheme by itself, because it is right, and then worry about where we get the money from. It might come from various sources, but the scheme should stand on its own basis, not tied to the privatisation of a government monopoly, which was at least mooted earlier by both the Attorney General and the Treasurer. It should not be tied to that, and we would like to have clarification from the government that it is going to support the redress scheme regardless of whether Landgate or any other state government asset is sold, because it should not be tied to that. We assume that that is the case—that there is no tie—but that is not clear from the statements we have heard today.

This redress scheme is right. It has been well researched and documented, and has to be done on a national basis, because many of the people who have suffered sexual and other forms of abuse in institutions have travelled around the nation, and many of those institutions are interstate. Indeed, this is actually a global issue.

Many other like countries have gone through very similar processes and, indeed, some of those institutions are global institutions.

It needs to be a national scheme that we adopt here in Western Australia. We are going to contribute to it, in part because some state government–owned institutions were part of the process and the problem, and because some of the other non-government institutions were located here. This is a scheme that, whatever the cost, we have to do, to provide redress. We also have to put in place processes to ensure that this does not continue to happen or happen again. Otherwise, we will be letting down the very people that the scheme is designed to provide redress for. If we allow such abuses to continue, we will be perpetuating a terrible stain on our governance and our society.

The Liberal Party congratulates the federal government for the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 and the McGowan government for bringing it forward. We will have some queries about certain aspects, but we will support it fully, and we would like an official statement from the government that the scheme will go ahead regardless of the sale of an asset or an additional tax or revenue stream. This scheme and the funding of it must stand in its own stead, which is fully justified. The Liberal Party fully supports the legislation.

We also encourage the government, with our support, to do whatever is necessary to stop the perpetuation of sexual and other forms of abuse in institutions, churches, and state and non-government organisations. That is the major lesson from the royal commission. It has perhaps diminished in recent years, but it is still there and we have to stop it from happening again.

MR P.A. KATSAMBANIS (Hillarys) [12.28 pm]: I rise to speak as the lead speaker for the opposition on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. As the Leader of the Opposition indicated, we welcome and certainly support this legislation, and we join with all Australians and Western Australians in expressing our strong desire, as a society and as a community, to learn from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. We must make sure that we eliminate the scourge of child sexual abuse from our society. We need to eliminate it. There is no point reducing it until we actually eliminate it and I think that is the point that the Leader of the Opposition rightly made. We know that the Royal Commission into Institutional Responses to Child Sexual Abuse made 409 recommendations to governments and institutions. That is important and the implementation of those recommendations will go a long way towards eliminating this scourge from our society.

The work of the royal commission cannot be praised enough. It is an extraordinarily difficult subject area, something that went on for many years. The courageous people who appeared to give evidence to the commission, either in person or in writing, also need to be highly commended for doing so, often telling stories that revived memories that they did not want to revive. In these circumstances, for some people, it is a catharsis, for other people it dredges up past hurt and past pain and continues that hurt and pain. Each individual is different. Each story is different but at the heart of it all is the gross breach of trust by institutions and individuals in those institutions over many decades. It was a gross breach of the trust that was placed upon these institutions and these individuals to care and nurture our most vulnerable children—those who needed care and support. Yes, in many cases, those children did receive care and support but far too many got the absolute reverse of that. They got abused in the most vile of ways. When reading the royal commission report, it is clear that we can describe some of that abuse as systematic abuse, whether formal or informal structures were put in place in some of these institutions that aided, abetted and enabled this horrible and nasty criminality. It is not a crime just because it is on the statute books but because it destroys the lives of so many thousands of people who carry that burden throughout the entirety of their lives.

One of the saddest aspects of this whole area is how some institutions in particular have had to be dragged—I do not use this term lightly; I use it advisedly—kicking and screaming to accept that what occurred under their watch was evil of the highest order. Unfortunately, some of these institutions and the people representing them have fought for decades to suppress the truth. They have lied to authorities. They have deliberately and systematically covered up not just grave criminal offences but also, as I said earlier, evil in their midst. They have treated victims in the most appalling of ways when this abuse has been reported. They have added to the burden of the victims. They have called them liars to their face; they have refused to accept. No matter how much light was shone on these practices in these various institutions and the individuals employed by those institutions, they simply denied that this was an issue. They paid hush money or go away money. They put the public reputation of their institution and the reputation of individuals within those institutions ahead of the rights of the victims. I think every right-minded Australian is glad that the royal commission finally managed to break down those barriers.

A lot remains to be seen in this area around these institutions. Have they simply responded to the royal commission report and all the other publicity around what has been happening for far too long? Have they responded in a way that they think will simply put good light on their institutions or have they accepted blame—first of all, accepted what went on—so that they can then commence putting in the structures and protections in place to protect vulnerable children in the future? Time will tell. I hope that all the institutions will make a genuine attempt, firstly,

to apologise and accept what went on and then to do the right thing—contribute to the National Redress Scheme, to make the changes into the future and to basically implement a zero tolerance approach for both what went on in the past and what ought never to occur again—and take a zero tolerance approach, not an approach that protects the institution, not an approach that protects those individuals who may have been accused of criminality and evil, but an approach that says this must not be tolerated. It was wrong in the past; it is wrong now; it will always remain wrong. Let those institutions that consider sin to be an evil publicly acknowledge that this is a sin. It should never have been tolerated and should never be tolerated ever again in the future—no more mealy-mouthed comments, no more behind closed doors agreements and payments of hush money or go away money to protect the reputations of people in institutions, who, through their actions over a long period, do not deserve to ever be protected and whose real face in the past needs to be shown to everyone in Australia, not the air-brushed image that they have wanted for so long to portray.

It is an area that deeply affects everyone who comes into contact with any victim of child sexual abuse. I reach out to the people involved in the royal commission—the commissioners, the staff, the legal practitioner, the advisers—because I have seen the consequences for many other people who have received this sort of evidence in the past and how mentally traumatic it is for them. I thank them for their work in particular but I also think of them as individuals and the stress and distress they would have been under and will probably continue to be under, and I hope they are seeking the appropriate counselling for what they have experienced. The body of work is amazing. I recommend it to members. It is not an easy read; in many ways, it is extraordinarily difficult, but it shines a spotlight on the sick, evil and criminal behaviour that has occurred for far too long. The Royal Commission into Institutional Responses to Child Sexual Abuse made a recommendation in its "Redress and Civil Litigation Report" to establish a single National Redress Scheme to recognise the harm that has been suffered by survivors of institutional child sexual abuse. The scheme is a recognition and admission of the harm. It is not a scheme that ought to be described as a compensation scheme. As I am sure every member in this place and every right-minded Australian recognises, we can never compensate those victims. It is impossible. Millions of dollars cannot change what happened. It is, however, a recognition, which is hopefully a first step to healing for the thousands of people who were subjected to those evil things.

The commonwealth government, as the Leader of the Opposition pointed out, needs to be commended for taking the royal commission's recommendations seriously and working on that single National Redress Scheme. It is a difficult and expensive area. In many ways, dealing with six states and two territories is an experience in itself for all forms of nationally consistent legislation, let alone in this complex and difficult area that has almost an open-ended financial application, for both governments and institutions. The commonwealth government needs to be commended for taking the lead. The two commonwealth ministers also need to be commended. Firstly, Christian Porter, former member of this place and former Treasurer and Attorney General of Western Australia is to be commended. He is now the commonwealth Attorney-General. I also commend my friend Dan Tehan, the Minister for Social Services, I am pretty sure it is.

Mr J.R. Quigley: He was at the time.

Mr P.A. KATSAMBANIS: Yes, he was Minister for Social Services at the time.

Mr J.R. Quigley: Might I add former Prime Minister Julia Gillard, who called the royal commission?

Mr P.A. KATSAMBANIS: Yes, every Prime Minister from the calling of the royal commission—Julia Gillard should be deservedly commended for calling the royal commission. This is way beyond politics, "us and them", Liberal–Labor or any of that. She should be commended for calling the royal commission, as should the subsequent Prime Ministers who received various reports and acted upon them. Tony Abbott and Malcolm Turnbull were the two Prime Ministers at the time that the scheme was being devised. The new Prime Minister Scott Morrison, as former Treasurer, obviously had to keep his eye on this. They ought to be commended. I commend Dan Tehan, in particular, and I think the Attorney General in this place has expressed his thanks to and support for Dan for the work he did to assist Western Australia coming on board.

The National Redress Scheme is essentially governed by an act of the commonwealth Parliament and various other instruments, regulations and the like that flow on under that act. That creates the national element of the scheme. However, the commonwealth can only make its scheme applicable to the entities that it owns. It cannot make it applicable to state government entities, and we have seen in Western Australia that state government entities have been, in the past, complicit with some of the abuse that happened. The commonwealth government also cannot make the scheme apply to institutions, particularly those that do not use a corporate structure under the commonwealth Corporations Act, but use various other structures such as trusts. Essentially, where they are governed—I use that term advisedly—they are essentially governed by state legislation. There is a requirement for a referral of state legislative authority—state powers—to the commonwealth to give effect to the scheme. This bill before the house today is really a referral bill. It adopts the commonwealth Parliament's National Redress Scheme

for Institutional Child Sexual Abuse Act 2018 and it refers limited power to the commonwealth to deal with the scheme itself.

For applicants—victims of abuse who apply to the scheme—it provides three elements of redress. If the applicant wants to, they can request a direct, personal response from the responsible institution. That is the first limb. It is very important—extraordinarily important—for the healing process. It is an acceptance by the institution that under its watch, it failed the most essential test in our society: to protect vulnerable children. That failure led to abuse and harm that carries on for victims forever. I think that is critically important and, again, I repeat the comments I made earlier in urging those institutions to not be mealy-mouthed or just pay lip-service but to offer wholehearted acknowledgement and a full and decent apology. In addition—I know this is what victims want, too—they must change their practices to make sure that from now on, there is a zero-tolerance approach to this abuse.

The second limb of the redress scheme enables victims to access funding for counselling and psychological care. That is critically important. We could talk about the impact—the ongoing mental and physical scars—that remains for a long time. A lot of information is included in the royal commission's reports and we have heard from other sources as well. That is critically important. I urge the commonwealth government to be very generous in the provision of counselling and psychological care for victims because it is necessary on an ongoing basis for a lot of victims.

The third limb is a monetary payment to the victims. A monetary payment, as I said earlier, will never compensate victims for what they had to endure and continue to endure. An appropriate amount of compensation can never be struck, but a monetary payment may, firstly, give closure to those victims and, secondly, enable them to utilise the funds in a way that could assist their life in the future. That is a good thing.

As I said, the commonwealth implemented this scheme, and the intention was that the scheme would commence on 1 July 2018, and in other states it has. I am told—the Attorney General will correct me if I am wrong—that Western Australians can now make an application to the scheme, even though we have not formally referred our powers. They can go through the administrative process and then they will get the redress on the passing of this legislation.

Mr J.R. Quigley: It is on 1 January 2019.

Mr P.A. KATSAMBANIS: That brings me to the date. The Western Australian government held out for well-known reasons that I do not intend to delve into today. We can say that they were the right reasons, not-so-right reasons, or some of them were right and some of them were wrong. At the end of the day, as a state we have the right to consider how things will affect us, and the government of the day is the protector of the best interests of Western Australia and Western Australians, and that is what it chose to do. Western Australia has not come on board yet because it took us a while to reach agreement. I think we did not reach agreement until June.

Mr J.R. Quigley: On child migrants.

Mr P.A. KATSAMBANIS: Correct, and that is important. The child migrants issue is important, because there is a delineation of liability issue between the commonwealth government, which brought these child migrants to Australia under a commonwealth scheme, and the various state institutions that, effectively as subcontractors for the commonwealth, provided the care for those child migrants. Western Australia needed to address other issues. The aspiration of intent is to allow Western Australia to participate in the scheme from 1 January 2019. That is, of course, conditional on a number of factors. The first is the passage of this bill through this place. I certainly do not intend to hold it up. I wish it speedy passage. Either today, or by the end of the sitting week, we should be able to pass this bill through this place, considering that there is absolute bipartisan, indeed multipartisan, support for it in this chamber. It is then required to go through the procedures of the other place. Obviously, no bill could be drafted until we reached agreement at the end of June. The drafters got going, it was tabled in this place, and now we are debating it. When it goes to the other place, as a referral of Western Australian powers to the commonwealth government, it will need to go to a committee of the Legislative Council for consideration, under its standing orders. Hopefully, by the time the Council rises for the summer break, the bill will have gone through so that the scheme can start on 1 January.

I cannot stress enough how important it is that we implement this scheme as soon as possible. Long-suffering victims have been calling for this scheme for a long time. The establishment of the scheme at the commonwealth level has given them some great positivity and, allowing for what in layman's terms are technical reasons—those technical reasons being very important, passage of legislation through Parliament—they want to get to that scheme as soon as possible to seek their redress, a direct personal response, and access to counselling and psychological care, as well as, obviously, the monetary payment. I will speak about that in a minute. We have seen analogous circumstances in the recent case of Mr Paul Bradshaw in Western Australia. He utilised the removal of the time frame for liability from the civil jurisdiction in Western Australia to make a claim, which was expedited by the

court process because he has a terminal illness and was unlikely to still be living if the normal court processes took their time. We know that people out there need this redress now before they either decease or get to a stage at which they can no longer comprehend what is going on. We need to get this through as soon as possible.

It would be great if the scheme were to start on 1 January. I do not know what other members have experienced, but I have already had inquiries at my electorate office from victims seeking more information and wanting to know when and how they can make their claim. I see from the nodding by the Attorney General and others that I am not alone in that. People come to their local member of Parliament. Whether it is a commonwealth or state matter, they go to the person whom they feel most comfortable with, or whose location they know, and they knock on the door, come into the office and expect us to assist them, and we try to do that. All members of Parliament try to do that.

The scheme will be costly. At a briefing the opposition was told that the financial imposition of joining the scheme would be included in the midyear review. I do not know whether the Attorney General will have any further update in his summing-up, but we would be keen to find out what the assessment is. It will be some form of actuarial assessment. I realise, as I am sure the Attorney General will tell us, that we are really asking the time-honoured question of how long a piece of string is in these cases, but Treasury and actuaries have a very good ability to come up with at least a ballpark figure, so we will look forward to that in the midyear review. As was pointed out by the Leader of the Opposition in his very good contribution, when the state government announced that it had reached agreement to participate in the national redress scheme, the Premier effectively tied participation and the financial impost of joining the scheme to what he determined as the commercialisation of Landgate. I hope that was either a rhetorical flourish or one of those political tactics to hide bad news, either in amongst good news or at a time in the news cycle when other things will be taking priority. The Leader of the Opposition highlighted this in his contribution. It is wrong, immoral and utterly reprehensible to make the funding of this important national redress scheme and its application to Western Australians contingent on the sale or commercialisation of a government asset. It is immoral and reprehensible because of the trauma that the victims have suffered and continue to suffer.

We should not be giving victims false hope and we should not be making their access to redress conditional. I note that this bill certainly does not make it conditional on the commercialisation of Landgate or anything else, so I am comforted by, and happy about, that. I recognise that the state's finances are not flush. The forward estimates show that it will always be tough to look for new money to fund important schemes such as this. However, I stress that the victims have suffered enough. They should not have their access to this scheme determined by some other government process. Since we have raised it, I will put my personal view on the record here. I have no philosophical objection whatsoever to the commercialisation of Landgate. I would look at every proposal on its merits, obviously, to ensure it is a good deal for not only the state, but also the users and consumers of the services of Landgate, or any other commercialised entity and any other stakeholders. I am not reflexively opposed to it. However, we do not even know if or when that is going to happen. I think the government has commissioned one of those investment banking organisations to conduct a feasibility study on why and how it ought to do it. It will be a long, long time before the actual commercialisation of Landgate can even happen and any money is brought in.

As I said, I hope that the Premier's comments about Landgate back on 27 June, when the participation in the National Redress Scheme was announced, were really an attempt to ameliorate the political cost of a Labor Premier who campaigned so heavily against privatisation to get elected all of a sudden becoming converted on the road to Damascus in the privatisation and commercialisation of government assets. I welcome the Attorney General's comments on that. I ask him to clarify whether the state government in the midyear review, in which it determines how much money it believes the scheme will cost in this year and through the forward estimates, will provide appropriate funding. Will any funds brought in from Landgate go into consolidated revenue and assist in balancing the budget, rather than be tied directly to the payments that the state is responsible for under the redress scheme? Of course, other institutions will also be responsible for payment under the redress scheme, and I am sure others will point out that some of these organisations have seemingly endless pots of money in places that are difficult to untangle. That is probably a debate for another day. That is a serious issue and I would like the Attorney General to address that and clarify that the government is going to fund its costs under this scheme. If or when it commercialises Landgate and gets a return for that commercialisation is a separate issue. There is no nexus between the two. That is critically important.

There are still a lot of questions around how the scheme is going to run. It is a commonwealth scheme and I am told that the Department of Human Services, I think, is going to run the scheme at the commonwealth level. Is it the Department of Human Services?

Mr J.R. Quigley: I am not sure. There are operators, and we nominate the operators.

Mr P.A. KATSAMBANIS: Yes. I see that the Minister for Child Protection is indicating that she believes that is the case. But here we are; the Attorney General, the minister and I, as the lead speaker for the opposition, are still asking questions about how it will run. I am sure that the victims are asking questions too. I have great faith that no matter which department runs it, the staff in that department will do it diligently and they will recognise the

sensitivity of this area, but those questions are still up in the air. I state that not as a criticism, but to highlight that this is still a work in progress, despite the scheme on a national level coming into place on 1 July.

Looking through the bill, we see that essentially there is some specific terminology. Clause 1 is the short title, clause 2 is the commencement and clause 3 is a definitions clause that defines some of the terms used in the bill. Part 2 provides that Western Australia adopts the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 and then refers its powers to the commonwealth for the administration and other aspects of the national scheme. The bill also provides a mechanism by which the national act can be amended. Essentially, it allows for the fact that there might be a need for an amendment, but an amendment will be made by the agreement of the state and then the agreement of all the states. The bill refers to Western Australia's agreement, but I think—again, correct me if I am wrong, Attorney General—the intention is that all amendments will need to be ticked off by the states and territories in the scheme. I note that the Attorney General is agreeing with that. That is a good thing. We do not want to refer a power to the commonwealth so that the commonwealth can then do whatever it wants without reference back to our state.

In the same part, clauses 9 and 10 contain provisions for terminating the adoption or amendment reference from a state's perspective. I do not request that the Attorney General gives me a full legal opinion on this, but I think legal scholars are not all in agreement that once the state refers a power to the commonwealth, it can terminate the referral. That will be something that the High Court might want to determine in some instances. I am a states' rights man. My personal belief is that not only does the state have the power under the commonwealth Constitution—I think it is section 51(xxxvii) in this case—to refer powers to the commonwealth, but also it is implied in that section that the power to refer or to terminate a reference is held by the state. I do not think it has ever been litigated, but I just point it out here. Every time I see these sorts of clauses allowing for clawback, if members like, it strikes me that it is not a determined issue in our Federation.

There are some other parts that I want to refer to. I particularly want to refer to part 4, which is about the interaction between the Criminal Injuries Compensation Act 2003, which is a Western Australian act, and the National Redress Scheme for Institutional Child Sexual Abuse Act 2018.

Mr J.R. Quigley: To stop double dipping.

Mr P.A. KATSAMBANIS: Essentially, it stops double dipping. If someone applies to the redress scheme and is successful, they cannot come back into the state jurisdiction and claim criminal injuries compensation. If a person has already made an application to the criminal injuries compensation system and if there is a likely case that they can apply to the redress scheme, that state-based application to the criminal injuries compensation system will be stayed until that person makes an application to the redress scheme and gets their determination there.

Mr J.R. Quigley: That policy is in part because if the victim is the victim of a church, they should be going through redress because they will then get their redress through the church and not through the taxpayers of Western Australia under criminal injuries.

Mr P.A. KATSAMBANIS: The Attorney General occasionally has the habit of getting inside my mind and finding out what I am going to say. Yes, I agree. That is the point: the payments funded through the redress scheme are not just funded by government. Essentially, the buck stops with the institution that caused or was responsible for the harm, either vicariously or by its own acts or omissions. That is the way it should be. Why should the taxpayer be charged with payment of compensation through our taxation system, on which the Criminal Injuries Compensation Act largely relies, when there is another body that is responsible, has the capacity to pay and has the moral obligation to pay? That is what the National Redress Scheme does; it brings these institutions, whether they are a church or some other form of public institution, into the scheme and creates a mechanism for them to appropriately pay the victims. Obviously, there is the other issue that, on an evidentiary basis, the evidence an applicant would need to provide to the National Redress Scheme to obtain a payment would, in almost all circumstances, be easier to obtain. It would be a much lower threshold than the criminal injuries compensation system, which, at the heart of it, relies on a criminal conviction. Of course, it can be spread out to a finding that some form of criminality occurred. Because of the historic nature of many of these offences, in 2018 and beyond it is sometimes impossible to get that further evidence that would lead to a criminal conviction—important witnesses might not be alive, the perpetrator might not be alive and, in some cases, the institutions may no longer exist or, as I mentioned earlier, may exist in another form. We know that some institutions have seen the protection of the institution as a paramount consideration in this whole area, which has included putting in place structures and restructuring those structures to protect the assets of the institution. We need to get behind all that, which is what this scheme does.

The Attorney General made a lot of public comment around his intent that the National Redress Scheme would not preclude people convicted of criminal offences from accessing the scheme.

Mr J.R. Quigley: Not necessarily preclude.

Mr P.A. KATSAMBANIS: Included in that group are people convicted of child sex offences. They are not excluded from the scheme. They can make an application that will be determined on its merits by the federal scheme.

Mr J.R. Quigley: Can I comment?

Mr P.A. KATSAMBANIS: The Attorney General can interject; I do not have much time left, though.

Mr J.R. Quigley: They will be excluded, but there will be an exception. They can make an application and then the operator will ask the state Attorneys General whether the exception should apply to that particular person. We do not want to scandalise the scheme.

Mr P.A. KATSAMBANIS: I think so. I agree that we do not need to scandalise the scheme. At the same time, we need to be cognisant of the fact that a cycle has been clearly identified, as was highlighted by the royal commission. There is a cycle that commences with a victim of child sexual abuse. In many circumstances, it can spiral right out into that victim growing up and being completely and utterly displaced and engaging in criminal activity. Unfortunately, there is a clear link between abused persons who later in life become abusers. I recognise all of that. I understand the need to have a mechanism to allow victims of child sexual abuse to seek a determination of their application. I agree with the Attorney General, though, that we cannot scandalise the scheme; we cannot have examples coming out publicly. We know that elements of the media would love to highlight those examples. We cannot have examples in which there would be a public perception that undeserving people have been provided with monetary payments under the redress scheme. We cannot control that here in Western Australia; it will be controlled by the operator of the scheme, by reference to each Attorney General in each relevant case. It is something that we need to watch. My question to the Attorney General, which he can hopefully answer in his response, is: what public reporting mechanisms are in place to highlight how many of these types of applications by exemption have been made and approved through the commonwealth scheme, or are there any particular obligations on individual state Attorneys General who approve or accept payment under these schemes? I think that is critically important. This is one area in which transparency is important in order to maintain the integrity of the scheme. I know some people have a view that a person who has been convicted of a criminal offence ought to be excluded from the scheme. Some people have a view that a person who has been convicted of either sexual abuse or child sexual abuse ought to be excluded from the scheme. My personal preference—I express it again—is that a person who has been convicted of child sexual abuse ought to be given no access to the scheme. That is irrespective of whether they were part of that cycle. I think they have forfeited their right to access the scheme.

Ms S.F. McGurk: That is pretty understandable—that was sarcastic.

Mr P.A. KATSAMBANIS: I think they have forfeited their right to seek redress, as difficult as the circumstances might have been for some of these people. Again, I stress that there is an extremely low burden of proof in these applications. I am not suggesting that we amend the commonwealth scheme—I think overall our Attorney General in Western Australia has done a very good job. However, it does not sit right with me that perpetrators of child sexual abuse could come into the system. I hope that in practice that is considered and rejected in most cases. I am a lot more sympathetic towards other elements of criminality. Of course, we know that victims can unfortunately spiral out and become perpetrators. I recognise that. It is an issue that ought to be addressed. The best way in which we can address it during the operation of the scheme is by transparent reporting, with the obvious protections for individuals, particularly victims, because that is an area in which the scheme could be brought into public scandal, as the Attorney General earlier rightly said.

In the time remaining to me, I want to highlight the interaction of various jurisdictions in this area. Earlier this year, we as a Parliament rightly agreed to remove the statute of limitations that applied to victims of child sexual abuse who sought to take a civil action against the perpetrators of the abuse or the institutions that aided and abetted or were vicariously liable for the abuse. All members said at the time, and I certainly did, that that is good, because it is something that victims have been asking for, and we will see how it operates in practice.

One very early example is the one to which I referred earlier of Mr Paul Bradshaw. He is an extremely commendable individual. He had suffered horrific abuse at the hands of, I think, the Christian Brothers order of the Catholic Church. Despite all his suffering, he built a family, and worked as well as he could. However, unfortunately, he is now suffering from an incurable terminal illness. His application was expedited. On the day the trial was scheduled to start, he was offered a settlement of $1 million. I think that indicates once again that the maximum of $150 000 payable under the redress scheme is not calculated to be compensation as we understand it in legal terms. In that civil litigation, Mr Bradshaw and his legal advisers accepted that $1 million settlement. Mr Bradshaw is an extraordinarily strong and tough individual and he deserves our highest commendation.

I also want to make mention of the solicitor in that case, Michael Magazanik from Melbourne, who ran the case on behalf of Mr Bradshaw. He is another wonderful individual. I first came across Michael Magazanik when he was the Victorian political reporter for *The Australian*, at a time when I was serving in another Parliament. I knew him to be

a man of the highest integrity as a journalist. He decided to go back to study as a mature age student. He became a lawyer and he entered the field of compensation. He shows great compassion and dedication to the protection of victims, and that drove him in the way in which he advocated and fought for Mr Bradshaw. I congratulate Mr Magazanik and the many lawyers like him who are trying to help victims in this very difficult area.

I read a news report not long ago that suggested that the courts in Western Australia have effectively been swamped by applications since the liability limitation period was lifted by this Parliament. I think 80 applications had been made in a very short time, which was more than one-third of the number that were anticipated to be made over a whole year, as the Attorney General told us during consideration in detail of that bill. That goes to show that many victims out there—many more than we know of already—are suffering. They suffered in silence at the time at the hands of the evil perpetrators, and they continue to suffer to this very day. They see the changes that we made earlier in the year, and they see the National Redress Scheme as an opportunity to come in from the shadows and from the darkness and seek recognition that they were wronged, seek an apology, seek an admission from the institutions and individuals who abused them, and then obviously seek either redress, or, in the case of a civil action, seek some form of compensation so that they can get on with their lives. I express my utmost sympathy and respect for the victims. I congratulate everyone involved—the commonwealth government, the Prime Ministers whom I mentioned earlier, the federal ministers, and our state Attorney General—for working to put this scheme in place. We cannot answer a lot of questions today because Western Australia is not the administrator of this scheme. All we can do is be ever vigilant to ensure that the scheme works.

On that note, I indicate my personal support and the Liberal Party's support for the bill. I wish the bill speedy passage and wish that the scheme achieves all its objectives.

DR D.J. HONEY (Cottesloe) [1.28 pm]: I also wish to speak in support of the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. I congratulate the government for introducing this bill. Like everyone, I was completely horrified to hear about the systematic abuse that occurred in a range of institutions. In particular, like everyone, I was horrified to hear how often that issue had been raised with the authorities by children and parents and nothing was done. In fact, as previous speakers have said, it appears that in many cases the response of the institutions was to hide the issue and protect the perpetrators, and ignore the plight of the victims. I expect that once this scheme is in place, we will hear from many more victims. I suspect that the extent of this abuse is far greater than we imagine. I see that there were some 25 000 telephone inquiries to the royal commission and some 8 000 individual sessions were held with people, but I really do suspect that a substantially greater number of people will come forward. Clearly, it has been an enormously harrowing experience for people—they are brave people who came forward. I could imagine that for those people to come forward and to have to relive those experiences and in some cases to share very personal matters would be enormously hard. I really think that those people are trailblazers for others to come forward.

The insidious part of child sexual abuse generally and, in particular, in institutions is that it is largely a hidden crime. Children simply do not raise the issue, particularly when adults are the authority figures in the institution. On this, I reflect on my own experience at a boarding school. I hasten to add that I was not a victim of abuse. However, it was common talk amongst students of abuse that occurred in the institution that I attended. A housemaster routinely showered with the boys, including me. Other boys also reported waking up and the housemaster would be massaging parts of their body. That was never reported to the adults; the students just talked about it amongst themselves. Equally, another housemaster at that institution was widely reported by students amongst themselves to be engaging in sexual activity with young women in the institution who were under the care of his wife. Again, that was never reported. The person who was alleged to be responsible for those actions is now dead, but, again, that was never reported. In fact, a priest left the institution and married a 16-year-old student. One would assume that a relationship was occurring that was completely inappropriate for someone in such a senior position, but that matter had not been reported before. A terrible thing about abuse, and why I suspect the numbers are much greater, is that children take it as being normal; they do not realise it is an issue and do not raise it with adults because it seems to be an acceptable behaviour. Certainly, in the case of some of that behaviour, other adults and senior staff had to be aware of what was occurring and nothing was done, so the students took the attitude that it was, if you like, normal within the institution and something a student in a boarding institution should expect.

The other part of abuse that clearly is not part of this legislation, but which was a significant behaviour, was the bullying and brutalisation that was undertaken by a number of the housemasters in particular. I believe that practice has been significantly stamped out in institutions these days, because it was, again, seen to be part of raising children at the time. However, I am not so confident that sexual abuse is not still occurring in some of these institutions.

Although the focus of this legislation is on appropriately recognising and compensating the historical victims of child abuse, I think, as has been said by other speakers, we should also ensure that we learn lessons previously learnt from this royal commission. Particularly, I recognise the role of former Prime Minister Gillard in raising this royal commission. I think it was a seminal moment in the history of Australia when she did that. I remember

vividly when this issue was raised and widely recognised. It really was a great act of leadership on her part to raise this issue. I think of other seminal moments in our history; I remember I thought that Australian troops going in to defend East Timor was a seminal moment in Australian history as well, but I think this ranks as one of the most important. When former Prime Minister Gillard announced the royal commission, she said that we needed to make sure the terrible wrongs that had been done in the past to children in our country to the greatest extent possible never happen again.

I know that various things are happening, but this is a topic worthy of specific consideration in this place; that is, what processes and mechanisms do we have intrinsically to stop this happening again? What oversight, reporting and investigation mechanisms are there for ongoing abuse claims? I am sure that paedophiles target institutions with children and that improper behaviour will continue if we do not have really tough and appropriate mechanisms to make sure that it cannot happen.

The impact of abuse on people is corrosive. We have seen those harrowing reports. We have seen the pain on the faces of the people who were brave enough to go in front of the media and the lifelong pain that they had experienced. Obviously, abuse affects not only those people, but also their parents who find out about this sometimes decades later and have this enormous guilt that they did not do something about it even though, in all likelihood, they did not know it was occurring. The effect of abuse on families is something that came through really clearly—families suffer dysfunction because of the impact of the mental state of a parent and a partner.

Financial compensation clearly cannot compensate and erase those memories, but it certainly formalises the most important aspect of what I believe this legislation enables through the federal scheme—that is, recognising that abuse occurred and that the state, along with the institution, owes recompense for the lack of oversight and the lack of previous response. Clearly, that is pivotally important. Hopefully, as a result of this scheme, some people can improve their lives and move on, because it is very clear that a number of people have been trapped in this for their whole life. I fully support the inclusion of people who have served prison sentences in the compensation package. Whatever else those people have done in their lives, it is certain that institutional abuse must have played a significant detrimental role in their lives, and that must be recognised separately from considering any other matters.

I am hesitant to include this in this debate because it is such an important and personal matter to the people involved, but I believe that the government linking this legislation to the Landgate commercialisation was not at all appropriate. The sale, or commercialisation, of Landgate is a highly contentious issue. Properly recognising and compensating victims of child sexual abuse should not have been and should not be treated as a pawn to enable or somehow justify the sale or commercialisation of Landgate. It is really commercialising an asset by stealth. I do not intend to debate the merits of the Landgate sale, because I think it would be disrespectful and a disservice to the victims of institutional abuse who are the subjects of the bill. However, I reinforce that I believe it is completely wrong to link the passage of this bill to the Landgate sale. We all support this legislation, and the government has the responsibility to pass the legislation and not hold it hostage to that particular completely separate matter. I conclude my remarks by congratulating the government for introducing this legislation. I certainly offer my full support for the passage of this legislation.

MR P.J. RUNDLE (Roe) [1.39 pm]: I will make a brief contribution to the debate on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. The Nationals are certainly very supportive of this legislation, as other parties have been. Firstly, I would like to congratulate the federal government for its efforts to make this redress scheme come to fruition.

I agree with the member for Cottesloe that we should recognise former Prime Minister Julia Gillard for getting this underway in the first place. I think the royal commission was a massive step and I know that the commissioners took on a heavy load when they went into it. I know Andrew Murray, one of the royal commissioners, quite well. He thought long and hard about it. Going onto the commission, the royal commissioners subjected themselves to many stories that were very difficult to listen to over a three, four or five-year period. I congratulate not only Andrew, but also his fellow royal commissioners on the job they did and the way they took action to address the subject. I think they also did it relatively quickly. They took a lot of submissions, but there was talk that it could go on for seven, eight or nine years, as it did in Ireland. I congratulate them for their efforts.

I certainly support the state government and the Attorney General. I think he has tackled the subject pretty well, in fact, over the last year or so. He knows about my electorate and how I think about it. I know that there were initially problems when drafting the statute of limitations legislation, but, all things considered, I think the Attorney General has tackled the subject pretty well. I have spoken many times on how institutional child sex abuse has affected many of my constituents. I was reminded of this recently—in the last week or two—at a field day when one of those constituents, who was most distressed, came up to me. I was able to inform him that the National Redress Scheme legislation and the state legislation was well in train. I told him who he should talk to and how he should go about it, and I could see the look of relief on his face.

I also see how the lives of many of those victims from my electorate and all over the state have been affected. A lot of us cannot recognise how this affects people's ongoing lives. Some people can get past it and continue without too many problems, but for many people it affects their whole lives. I acknowledge those victims from my electorate. Our role here as legislators is to put important legislation such as this through Parliament, and this is one of the most important pieces of legislation. Abuse occurred at the likes of St Andrew's Hostel in Katanning, the subject of the Blaxell inquiry, and at Condingup Primary School. I would like to acknowledge the efforts of one of those victims—that is, Kirsty Pratt. She sat in the gallery for not only weeks but almost years. On behalf of all the other victims, she was determined to see the statute of limitations legislation get through this Parliament. This legislation is an extension of that.

One of the biggest breakthroughs is that the church groups and educational institutions have finally admitted wrongdoing and some responsibility. I am very pleased that around 93 per cent of those have opted into the scheme and that they are finally taking some responsibility. I think the public of Australia is pleased to see that as well. I have been appalled at the length and breadth of the institutions involved. At last, we are finally seeing some justice and redress for those victims. The likes of the Salvation Army, Scouts Australia and other groups support the scheme. To be honest, I do not think any of us would have expected that, but I am glad that they are finally taking some responsibility. I agree with the member for Cottesloe; I think many more victims will come forward in the years to come. One of the victims at St Andrew's Hostel was a 13-year-old boy. He went to the headmaster of the high school and the perpetrator, Dennis McKenna, was called in as well. That 13-year-old boy was basically thrown out the door and told, "No, this is not happening. Be on your way." It would have been very hard to be treated like that as a 13-year-old child. We have certainly improved on that over the last few years. I also recognise the parents of those kids. They sent their kids away on school buses to a school, a residential college, a church youth group or a church. Many of those parents must feel guilty and it must be very hard for them.

In closing, I will comment on the attachment of the Landgate legislation to the redress situation, which I do not believe is appropriate. It is a little bit like the tying of TAFE fees to the foreign buyers surcharge. We are seeing a disturbing trend when this sort of legislation has attachments to it. We do not need to go down that path. I congratulate the Attorney General for the work that he has done on this. I will close with a quote from Todd Jefferis. He said that enabling a wronged and powerless person access to a process for redress is a small thing that the government can do for survivors. I think that sums it up.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [1.47 pm]: I also rise to contribute to the second reading debate on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. The opposition supports this legislation but, as my colleagues have mentioned, we have some concerns about it being linked with the sale—or commercialisation or privatisation—of Landgate. In this chamber we debated for several years lifting the statute of limitations to allow victims of child sex abuse to sue their perpetrators for compensation. During the debate and in the dying days of the Barnett government I was part of a subcommittee of cabinet that looked into how we could get the legislation right to lift the statute of limitations for child sex abuse victims to sue those perpetrators. I met with a large number of victims of child sex abuse. It was very concerning to hear how they had been treated. They were re-victimised when they reported the abuse, and many were treated very badly by the institutions that had been charged with their care when the abuse had occurred. They were taken advantage of and bought off with ridiculous offers of compensation that were a further insult to the psychological and, in many cases, physical injuries that they had sustained. The redress scheme is an opportunity for those victims to have an easier pathway to compensation. Going through a court process to sue someone civilly takes a fair amount of mental and physical energy. People need a good support mechanism around them if they have to go through a court process and talk about dreadful things such as child sex abuse and the effects it had on them and their life.

A redress scheme provides a good opportunity for people to access compensation without having to go through an arduous process and navigate the court system. As I understand it, with the legislation that was passed in this Parliament, even if a victim of child sex abuse accesses this redress scheme, they will still have the opportunity further down the track to sue through the civil mechanism.

Mr J.R. Quigley: No.

Mrs L.M. HARVEY: No?

Mr J.R. Quigley: Under the commonwealth rules they will be required to sign a deed of release and they will get $1 000 for independent legal advice before signing the deed.

Mrs L.M. HARVEY: Okay. I had thought that the way that our legislation was drafted, it did not preclude someone from suing civilly, but obviously the rules around the redress scheme —

Mr J.R. Quigley: These are the federal government's rules that are national, so that once a person applies and an offer of redress sum is made, they will have, I think, two months to consider that offer and they will get independent legal advice about whether it is a good offer or a bad offer. But then they will sign a deed and that's the end of it.

Mrs L.M. HARVEY: That is interesting. One of the major components of the debate we had was to enable individuals to take civil action against the perpetrator of their abuse or the institution charged with their care during the time that they were abused, regardless of whether they had received any redress offer in the past, having the value of that sum for a redress scheme deducted from whatever payment the court deemed appropriate. We will need to keep a very close watch on the National Redress Scheme and make sure that the sums that are being apportioned out to people as compensation are appropriate compensatory amounts, given that in a civil court one might expect potentially a greater amount awarded in some circumstances.

Mr J.R. Quigley: That is true, but the standard of proof under redress is so much lower that it is reasonably likely to have occurred. On the civil standard, people have to show on the balance of probability that it did, in fact, occur. If a person has no witnesses available or anything like that but they come forward with a story that is believable, then they will get their redress—they won't have to go to proof and prove it happened.

Mrs L.M. HARVEY: By way of interjection, Attorney General, my assumption then is that the $1 000 that individuals receive for independent legal advice with regard to their offer is not binding on them accepting the offer. They receive the $1 000 of legal advice so that they can then be advised if their case would be quite sound to take it down the civil litigation route. They might be best advised to take that route to receive higher compensation.

Mr J.R. Quigley: I was going to expand on this in my reply but I will give the member the advantage of it now so that she can ask further questions. What the federal government, through Mr Tehan, originally proposed was an $800 cash payment so that people could get independent legal advice. Because there could be a spread of lawyers in country towns without expertise, the federal government eventually settled on a sum of $1 000 per applicant, but the federal government would contract this legal advice out to independent people and an organisation of lawyers called "knowmore". Knowmore specialises in this area so that they will be able to give people advice about whether they are better off on the civil or redress path and what the deed would mean for them so that they are not shoehorned into giving up their rights.

Mrs L.M. HARVEY: I am pleased to hear that because it is quite concerning to think of victims—we have seen this in the past—with redress schemes offered by institutions whereby they have signed their rights away. In one circumstance, as I recall, the compensation for an individual was a trip to Bali. In one of the other circumstances it was a notebook computer. Out of that they signed away all rights to any action against, I think, a church institution in those two circumstances for any future claims. These are individuals whose lives were ruined by child sex abuse and they were bought out with a trip to Bali.

Mr J.R. Quigley: They can apply under Redress and that trip to Bali will then be netted out against the Redress amount. They might get $103 000 from Redress minus $1 500 for their luxury escape holiday in Bali.

Mrs L.M. HARVEY: I am not quite sure it was that luxurious, but anyway.

Mr J.R. Quigley: But whatever; you know.

Mrs L.M. HARVEY: That is interesting. I am aware of the time and that we will break for question time shortly. May I seek an extension, Mr Acting Speaker?

[Member's time extended.]

Mrs L.M. HARVEY: I just want to pocket that before we go to the break.

In looking at the redress scheme, part of the reason for the delay in negotiations during the Liberal–National government was ensuring that some of the matters between the commonwealth and the state were settled, such as who has the responsibility for the abuse that child migrants suffered when it was a commonwealth scheme that brought child migrants over and once they arrived they were managed by various institutions within the states. That matter needed to be settled. The other concern that we had when we were in government was that we did not want to be taking a bucketload of cash—taxpayers' money—from Western Australia, shoving it into a national scheme and then having the commonwealth administer a scheme without us necessarily having some control and management over what was being paid out and understanding which government agency, for example, might be culpable for payments and all those sorts of things. We need to be careful with these schemes and ultimately, the people who we need to put front and foremost in determining if we participate in these schemes are the victims themselves. We want to make sure that the scheme operates in the most supportive fashion for victims. Many victims of child sex abuse bear the shame and the guilt of their perpetrators, and for that reason they carry that with them for such a long time that it often takes many, many years of counselling and support before victims can realise the full extent of the abuse that they suffered, let alone bring that to the attention of the authorities to try to get a prosecution and some sort of action against the abuser. In doing that, in understanding that a person might be dealing with 40 years of trauma before an individual gets to the point of making a claim for compensation, we want to ensure that victims are not re-traumatised. The best way to do that is to have a really easy process. I am pleased that the scheme enables victims to access counselling and psychological care. One of the areas that I will

seek some clarity from the Attorney General on is a capacity issue around trauma counselling for victims of child sex abuse. There is quite a high burnout rate for counsellors who work in that area. I see that there is a need at both a national and a state level to address that, to try to encourage more people to go into that area of counselling and support, because for victims of trauma, particularly child sex abuse trauma, many of them will need contact with a trauma counsellor over the long term. We are talking two years for some victims who can recover quickly, and up to 10 years or even lifelong support for others. There is a significant capacity issue in getting access to trauma counselling. There is not much availability for people without sufficient means to access that kind of support.

There is a long waitlist for publicly funded clinical psychologists. For victims of abuse who do not have the means to access private counselling, there is a very long waitlist to access trauma counselling and support. The state and commonwealth governments need to address that capacity issue as we progress down this pathway with the National Redress Scheme. I suspect that still more victims will come forward as they get the confidence to raise aspects of their abuse knowing that the royal commission has given them permission to go public and name their abusers or the perpetrators. They will also have the support and friendship of other victims who have had the courage to stand up and talk about their experiences. Talking about experiences enables others who have been less confident to speak up and share aspects of their own abuse.

Debate interrupted, pursuant to standing orders.

[Continued on page 5726.]