

**CHILD SEXUAL ABUSE — CIVIL LITIGATION — STATUTE OF LIMITATIONS LEGISLATION**

*Motion*

**DR M.D. NAHAN (Riverton — Leader of the Opposition)** [4.20 pm]: I move —

That this house notes the failure of the McGowan government to introduce legislation to remove the statute of limitations for victims of child sex abuse, which it said was a priority; and calls on the Attorney General to apologise for raising the expectations of victims of child sex abuse when he was in opposition, and failing to deliver now that he is in government.

I have a couple of preambles to make. First, I thank the Leader of the House. It is correct that he was at a function earlier; I believe he came back at 1.30 pm. We had discussions with him, but in the end his wise head prevailed and we were able to pursue our preferred order of private members' business. There was an administrative error. We discussed among our team the order we wanted to go in, and that we now have. It is, as the Treasurer indicated, highly unlikely that we will get to debate three private business motions today; we will probably get through perhaps only one, and maybe two. That is the way it usually is.

This is an absolutely vital issue for the opposition. For the period I have been in Parliament, we as a society have been coming to terms with and trying to address the abuse of, largely, children, by state and religious institutions.

When we first came to office there was a redress scheme for child migrants, if my memory is correct. Young children were brought to Australia, largely from Britain, by the commonwealth and put into state care and private and religious institutions. They were abused. I am no psychologist, but the sexual and aggressive abuse those children received often leaves indelible marks on the lives and minds of those people as they progress through their lives. It is a tragedy.

At a commonwealth level, the Royal Commission into Institutional Responses to Child Sexual Abuse has been underway for a number of years. I have met with Elizabeth Proust, who I think is deputy head of a long-running inquiry—and it is. She said that being on a committee and finding out what happened to those little kids has been one of the most traumatic experiences of her life. It is a tragedy. This is an issue that we and the Parliament need to deal with constructively.

During private members' business in the last Parliament, the former member for Eyre tried to address the specific issues that arose at a Katanning public hostel—I believe the name was St Andrew's—over a number of years that resulted in the systemic abuse of children in state care. Being both a doctor and a local member, he put together a private member's bill to address that matter. He tried his best. The bill was brought to the Parliament and members opposite, and the government at the time, played politics with it. I will read some of the outrageous comments made by the then shadow Attorney General; nonetheless, we will get through them. Running up to the election, while in opposition, the Labor Party promised to bring forward legislation to address this issue as a number one priority. As the member for Scarborough has pointed out in detail, this has not been a priority of the government at all. We have seen no sign of the legislation. There has been no priority. Yes, it is true that he has said in answers to questions that this is a complicated issue—no kidding! That is what we discussed last time. It is a complicated and difficult issue. It really requires that we peer through the legal institutions that shelter large institutions from the scrutiny and retribution of the law—churches and other institutions. It absolutely has to be done. What has the Attorney General done? He said it was his highest priority. He made all sorts of disparaging remarks. The member for Scarborough pointed out some of them, but I would like to go through some of the others to show how vigorously he pursued us. On ABC online on 14 October 2016, a little over a year ago, this is what was reported —

Mr Quigley criticised Attorney-General Michael Mischin's unwillingness to waive the six year statute of limitations for victims abused in the state-run St Andrew's school hostel in Katanning in the 1980s and 1990s.

“The Attorney-General's position locks these victims out of the legal system because they did not commence their action within six years,” ...

This applies to him. These are his words. This is what he said a little over a year ago. Does it not apply to him now?

*The Esperance Express* of 20 October 2016 states —

Opposition leader Mark McGowan said Labor supported the bill —

That is the then member for Eyre's bill —

and shadow attorney general John Quigley was scathing of the government for delaying it.

**Extract from Hansard**

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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“Those who vote against this motion and allow this to happen, they by their actions will cast themselves as the protectors of paedophiles,” he said.

Does this not apply to the Attorney General now? It continues —

Mr Quigley slammed police minister Liza Harvey for voting against the bill.

Then he made one of the most despicable comments I have ever heard —

“When she goes home and this is on the news tonight, her own children will ask, ‘Mummy, why did you vote to protect paedophiles?’”

The Attorney General has daughters. Does this not apply to his daughters? I would never say that—never accuse him of that. I do not believe in that; that is not true. But what he said was despicable. He is despicable.

In *The West* online on 19 October, it states —

Shadow attorney-general John Quigley said the government’s actions were “deplorable” and it had put WA victims in the worst position in Australia.

They remain at his beck and call—on his failure to act. If he said that a year ago, it remains the case today, and it is happening on his watch.

*The West Australian* on 20 October 2016 states —

Mr Quigley said the statute of limitations was shutting victims out of the legal system.

“There is an old legal maxim—justice delayed is justice denied,” he said.

Justice delayed by the Attorney General is justice denied, by his own words. His actions are condemned by his own words. It continues —

“To delay this any longer exposes these people to further injustices.”

His words are the expression of his actions. His words are describing his actions here. The article continues —

Mr Quigley said the motion was a “seminal moment” for Parliament, because it would separate MPs into “protectors of paedophiles” or “champions of the victims”.

He claims to be a champion of victims, but is he a protector of paedophiles now. He claimed a year ago that he was a champion of victims. He used that to help him get into his current position, and for seven months now he has done nothing. Does that not make him a protector of paedophiles, using his own abusive words? I think it does.

**Mr J.R. Quigley:** No.

**Dr M.D. NAHAN:** It does. *The West* online, on 21 October, states —

Shadow attorney-general drew gasps of incredulity when he told ... Liza Harvey —

I am not going to mention those words again. They are despicable.

What happened? The former member for Eyre put forward a bill. He brought it to our party room. It was not a government bill. It had some weaknesses in it. The now Attorney General has had seven or eight months to address those weaknesses. We discussed those weaknesses of the bill in the debate. He ignored that and argued that we should immediately support the private member’s bill. If his words were right—if he were not misleading Parliament, the public and the victims—he would have brought that legislation forward again.

**Mr S.K. L’Estrange:** In the first week of Parliament.

**Dr M.D. NAHAN:** In the first week of Parliament he would have put it on the table and said, “Let’s go with it. We can address it with amendments later on.” He did not do that. A year or so ago he chastised our side for not supporting Dr Jacobs’ private member’s bill. They had the legislation ready to go. We all remember when the private member’s bill was debated last year, when shadow Attorney General Quigley used those despicable words against the member for Scarborough. Most of us do not have young children anymore, but we have all had children. If he said that about me, I would not be able to stay on this side of the chamber. That is one of the worst statements I have ever heard, but it is emblematic of our Attorney General.

What has he done since the election? Nothing. He has answered a lot of questions, rushed a lot of bills through that get stuck in the other house and he does not progress them, and he has done one stunt after another. But on this most important bill, the government’s number one priority, about which he said, “If you don’t act people are going to lose their legal rights”, he has done nothing. He has raised expectations, but failed to deliver. I think Kirsty Pratt is in the public gallery today. She is here on a regular basis, which is one of the reasons we wanted to

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bring this motion forward today. She needs and wants redress. She was promised redress by the Attorney General. She was encouraged and she believed the government of the day would come forth and say what it was going to do. The government said its number one priority was to bring a bill, which it had ready to go, to this Parliament to help redress probably the most destructive thing in her life—her experience in the past. But the Attorney General has not done anything; he has waffled. He did not even want to debate this issue today; we had to force it on him.

This issue will not go away. Unfortunately, the royal commission, which will probably report soon, will highlight that the issues in Katanning and the orphans' issues are just the tip of the iceberg and that it is systematic across institutions—schools, orphanages, hostels—around Australia, and, indeed, around the world, and that there needs to be systematic redress. The period over which this is explored needs to be extended for good reasons: when children are abused by adults, they are reluctant to come forward because they are ashamed and they do not understand; they try to hide it. The evidence is that people only have the ability or willingness to express it some decades later. That is why we had to move the statute of limitations. It is simple. I cannot utter any more clearly than to reiterate what the now shadow Attorney General said some time ago—the Attorney has failed to do it and it is a clear failure of his leadership. As the member for Scarborough said, he has brought forward a whole range of other priorities, and some are more complex. We are not arguing that the Attorney General should not have done that, but this was a promise to some of the most desperate people in our community. The Attorney General stands condemned by not only what he has not done, but also what he said he was going to do and the manner in which he said it needed to be done. I have quoted those.

The motion calls for the Attorney General to apologise for raising expectations and not delivering on them. He has had the opportunity to do that. It also condemns him for his failure to act. The legislation is complex; we have raised all those issues before, which the Attorney General fluffed off as not relevant. Something has to be done so we can peer through the institutional protection around churches and other institutions. The government has to do that. It is clear that more is required than just extending the statute of limitations. Other states and the commonwealth through the royal commission are working on this. We have to have some sort of redress scheme; we have to do it. Yes, it will cost money, but that is government; sometimes it has to address these issues.

It is time for the Attorney General to apologise for saying one thing and doing another. We would all rather not have to talk about or address these types of issues. Life is not always rosy for everybody, and sometimes there are people of perversity who prey on children. People are put in authority, whether that is in a church or a hostel, because of their moral, ethical or religious standing, and they then do something despicable to our children. We give them responsibility for our children, and they not only do not carry out that responsibility, but also abuse our children. This, quite clearly, impacts these people for life. Money will not replace the damage that abuse of this nature does to a child, particularly orphans and children abused by someone they held in high regard. This is a really crucial issue that we have to address. Yes, the legislation is complex, but the government can do it in stages. Graham Jacobs did a lot of the work a year or so ago. The government could have built on and implemented that. The Labor Party won government on this basis. The Labor Party went out and campaigned and won in a landslide on many issues, including this issue. This was a priority, and the government has done nothing. The government has not even explained why it has not done anything.

Does the government respect the people whose harm it is trying to redress to improve their lives? Maybe not. The government is playing politics. It is willing to have the Attorney General stand in this place and say some of the most despicable things to opposition members to make cheap political points. I am not going to say that I think everyone in this chamber supports addressing this issue, but I cannot believe that any local member of Parliament would not support this and not know the importance of this issue. I am not going to slang off the Attorney General, even though I would kind of like to—give him it back. But what he said shows that he is not interested in the victims; he was trying to create a new victim. If it was not the member for Scarborough, it would be somebody else. It says a lot about him that he would say that and then do nothing. He likes to grandstand that he is a champion of victims. In this case, I am not going to say that he is a champion of paedophiles, but he surely ain't the champion of victims in this case. He is not the champion of victims. The champion of victims would have got off their bum and set this up, as they said they would, as a priority, and we would have legislation pass expeditiously through this Parliament to address the needs of victims. But the Attorney General has chosen not to do that.

Today, even though we were first told that he would be, the Attorney General tried to not to be in the chamber—he would be gone. Luckily, the government Whip told us he would be here until 5.30 pm. He was trying to avoid debate on this issue.

**Ms A. Sanderson:** No, he wasn't.

**Dr M.D. NAHAN:** Yes, he was. He was trying to avoid debate on this issue—and for good reason. Anyone who has a track record such as the Attorney General's on this issue would not want to confront the issue in front of one of the victims that he led up the garden path and then abandoned. That is what he has done. He has a track record

on this. From this side of the chamber, I think the Attorney General needs to stand up and tell us when the legislation will come through, not the problems with it. We will scrutinise it to see whether it does what it should. The Attorney General should set a priority to get the legislation done in sittings before Christmas. That is what he should do.

**Mr J.R. Quigley:** Can I ask a question?

**Dr M.D. NAHAN:** You can speak for yourself when you get up.

**Mr J.R. Quigley:** I don't want to speak for you; I just want to ask you a question.

**Dr M.D. NAHAN:** No, I am not going to take any interventions from a person like you. You have time to stand up and utter your bile at me and everybody else!

Several members interjected.

**Ms A. Sanderson:** If anyone needs an intervention, it's you.

**Dr M.D. NAHAN:** I need an intervention! I have never let the victims down, but the government has.

If the bill is suitable, bring it in here tomorrow! If the bill that Jacobs brought forward is suitable, bring it here. Come on! Bring it forward. If the bill that we debated last time is adequate, bring it forward—come on. But do members know what? It has some faults, and this government has had seven or eight months to fix it. The Attorney General's office would have been looking at that bill for some time. There has been progress elsewhere through the royal commission and other movements in this state. A lot of other issues have been addressed elsewhere. This government could have learned from those gleanings, improved the Jacobs bill and brought it forward, but it chose not to. The government stands condemned on this. I have no doubt, going by the actions of the Attorney General, that we will be here in the new year, undoubtedly, debating this issue again, and the victims will be waiting for more. As the Attorney General said, there is a legal maxim: justice delayed is justice denied, and he is denying the victims justice.

**MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition)** [4.41 pm]: I, too, rise to support this motion. This legislation goes back a long way. When it was being debated in this house last year in 2016, that debate was one of the most appalling experiences that I have had as a member of Parliament in this place. I felt sorriest for the victims of child sexual abuse who had come into Parliament. They expected to hear a serious debate on this matter and about lifting the statute of limitations so that they could sue the perpetrators of the abuse that they had endured. What they saw in this chamber was an absolute debacle. They heard the worst kind of language being used in this place to describe the actions of members. They did not see a coherent debate about the problem that they were confronting. These people have been through the most horrendous experience. We have all met many of these victims and we all understand the trauma that they go through. We understand the trauma that can then be passed on to their children. We understand the difficulties that victims of child sex abuse have if they do not seek and receive the appropriate treatment in trying to parent their own children. We know that it damages their relationships, their ability to find employment and their ability to have a good life. We know that it changes them and their family members forever. What they seek is redress. One of my regrets is that when the royal commission made recommendations, we as a government did not step up and immediately get to work on implementing those recommendations. It is a regret that I will carry with me for a long time.

The Royal Commission into Institutional Responses to Child Sexual Abuse made the following recommendations. It states —

85. State and territory governments should introduce legislation to remove any limitation period that applies to a claim for damages brought by a person where that claim is founded on the personal injury of the person resulting from sexual abuse of the person in an institutional context when the person is or was a child.
86. State and territory governments should ensure that the limitation period is removed with retrospective effect and regardless of whether or not a claim was subject to a limitation period in the past.
87. State and territory governments should expressly preserve the relevant courts' existing jurisdictions and powers so that any jurisdiction or power to stay proceedings is not affected by the removal of the limitation period.
88. State and territory governments should implement these recommendations to remove limitation periods ...

Hon Graham Jacobs brought legislation to this place. Unfortunately, that legislation would not have covered off or met the expectations of the victims of child sex abuse or the intention of the recommendations of the royal

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p5636b-5659a

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---

commission, and those were the facts. I was appointed to chair a subcommittee of cabinet to look into this issue, and it is a very complex area. I understand that the complexities in drafting this legislation means that it is not a simple thing to achieve. However, I believe that it could have been achieved within the seven months that the government has been in power had it been given the appropriate priority. The subcommittee of cabinet made some recommendations to the government, and we made an election commitment, albeit too late for many of those victims to give us the time of day, and I accept that. However, those recommendations were made to ensure that the limitation period is removed with retrospective and prospective effect for all civil actions based on sexual abuse, serious physical abuse and other abuse. We made a recommendation that serious physical abuse and sexual abuse would be covered by that legislation, and that we would define child abuse in the legislation. We agreed that the legislation should allow for courts to set aside previous judgements and actions, and be able to take into consideration previous redress payments et cetera that have been made by an individual. That is a very important part of the legislation and I hope that the legislation the Attorney General brings into this place will cover off on that.

What I found to my horror in dealing with these victims of child sex abuse was that when many of the institutions and organisations that had employed people or had volunteers who had been perpetrators of the abuse found out that this civil litigation process was going to run them down, they set up committees and groups of people to find these victims of child sex abuse. I heard some horrific stories about victims who had never been able to get their life together, had never held down a job, were living in caravans in trailer parks, had mental health issues and serious alcohol abuse issues and had never been able to sustain a relationship. These victims were visited by representatives from these various institutions, and their stories are similar. They were asked, "What do we need to do to make you feel better and to make your life better?" We should bear in mind that many of these individuals had not completed school and they did not understand legal language. One individual said to these people, "I've never been to Bali." So the institution paid for him to go to Bali and he signed a confidentiality agreement to say that he would not go after that institution for damages because he had been given this trip to Bali and that that was somehow going to make amends for a lifetime of suffering. Another individual was bought off for far less. He said that he had always wanted a laptop computer, so the institution bought him a laptop computer. He then signed a confidentiality agreement to say that despite the fact that his life was in ruins, he would not go after that institution for further damages. It is really important that the court can set aside those horrible contracts, which were basically another form of abuse of the victim, in considering a claim for damages.

The other important subcommittee recommendation to government was the need for a way to identify a defendant. We have seen it happen in class-action cases in which a company or an institution thinks that it is going to have a damages claim and, all of a sudden, it shifts all of its assets around and there is effectively no-one to sue and no assets to access to pay the damages claims. The legislation needs to identify and allow for a trust to be sued or for a trust to nominate an individual or part of a fund that can be accessed to allow for a damages claim to be made to a victim, who has to have an individual or an entity that they can sue. The royal commission made some recommendations about reversing the onus of proof to require institutions to prove that they took reasonable steps to prevent child sex abuse. That is a bit more of a difficult one.

Some victims, with the benefit of counselling, have come to understand that their children have suffered immeasurably as a result of their own abuse. Indeed, some of the victims may have died, but their children are still suffering because of the abuse to the parent. There was a proposal to allow a deceased estate to sue on behalf of a deceased person. That is a really vexed issue of law. We made a recommendation that perhaps the Law Reform Commission should look at that issue, which is a very complex matter. Notwithstanding that, the evidence is very clear that there is often an inability for victims who have suffered to see when their children are suffering. If the trauma that they have experienced has not been dealt with, they are blind to the effects of that trauma, because their brain, to protect them, does not allow them to experience it again, so when their children are being made victims of abuse, the parents, if they are victims themselves, have an inability to see it, because the trauma they have suffered blinds them to those kinds of signals from others. Indeed, it also makes them blind to becoming victims themselves again. That is the way trauma works with these individuals. Children of victims are often re-victimised. I know of many individuals who, to their horror, have discovered, when their children become adults, that they have been victims of child sex abuse as well.

Another really important part of the legislation that I am sure the Attorney General will bring forward is the intersection of this legislation with the Criminal Injuries Compensation Act 2003. Victims of crime and victims of child sex abuse may have made claims under that act of anywhere between \$2 000 and \$75 000, depending on when the claim was made. Part 6 of that act, though, requires the criminal injuries compensation assessor to attempt to recover compensation paid from the perpetrator. In the legislation that the Attorney General brings forward, there needs to be something that allows victims who have made a claim through the Criminal Injuries Compensation Act to still be able to make a claim and sue for damages against the perpetrator. Probably rightfully, the court, when it assesses a damages claim such as that, should take into consideration the Criminal Injuries

**Extract from Hansard**

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

---

Compensation Act and the payout made through that scheme, but I would not like to see, for example, a victim of child sex abuse who goes to court and gets a damages judgement having to make a repayment through the Criminal Injuries Compensation Act. Essentially, it is money going around in a circle, and the victim does not then get the compensation that the court awards. I understand and absolutely accept that it is a difficult area. I understand and accept that although a lot of these victims have received redress payments, those payments often carry a clause that the redress payment precludes the victim from seeking further damages. Redress payments that have previously been made should be taken into consideration, but the fact that victims have been part of a redress scheme should not preclude them from seeking appropriate damages.

Victims of child sex abuse have to deal with these issues every day of their lives. They do not just go and get compensation, and then wake up one day and decide that it is a beautiful day and they will forget about the horrible life they have had. They carry the trauma with them forever, through every relationship and transaction. They carry it with them when they walk down the street and see someone who resembles their attacker or the perpetrator of the abuse. The former Attorney General said at one time, and I think his comments were misconstrued, that no amount of monetary compensation could ever make up for the experiences that these individuals have had and the suffering that they have endured. I agree with the former Attorney General on that. A compensation payout does not take away the pain or the hurt. It might provide the victim with funds so that they can access more appropriate care, have a bit of an easier life, and at least feel like they have managed to get something out of the perpetrator, especially if the justice system has let them down horrendously, which is often the case. However, it cannot really heal a hurt. That is not the vision of this legislation and it is not the expectation of the victims. Victims just want some form of justice and, in the absence of criminal justice and a result through the court of a term of imprisonment for the perpetrator, they want some monetary compensation to compensate them for the fact that they cannot hold down a job and do the sorts of things that other people take for granted.

I implore the Attorney General to bring this legislation forward. I can absolutely assure him of my support for legislation that would help these victims seek the civil remedy that they are asking for. In speaking to many of these victims, I found that many of them acknowledge that they will not have the emotional stamina or resilience to even bring forward an action or a damages claim. They just want to have the right to do that, should they get to a point when they can. That is what this legislation is about. I have said previously that one of my big regrets is that we did not do this as a government. I held high hopes for the Attorney General when he made that promise and said that it would be his first priority, and I have been waiting. I have been contacted by the victims. I have become upset, and I will continue to be upset, when I hear of the effect this is having on the mental health of those victims who were promised this legislation and have been waiting a long time. They came to this chamber and listened to the debacle of that horrible debate, which was just political, disgraceful and nasty, but they thought, out of the heat of that debate, that there would be some passion in this government to get the legislation into this place as a first priority, and we are waiting for that day.

I am waiting for that day with a level of dread, because I know that I will be criticised. As the representative in this house of the former Attorney General, I knew that I would cop personal criticism for not doing this earlier, and I fully expect that that will occur, as it has today, when the legislation is brought forward. I say *mea culpa* to that. I accept that. That is why we are sitting here on the opposition benches as the smallest opposition Liberal Party the state has ever seen. However, we will use our time in opposition to hold the government to account for its election commitments. Commitments to victims of child sex abuse need to be prioritised above every other commitment, because that is what the government said it would do. That is what the Attorney General said he would do. Attorney General, please bring the legislation forward.

Before I sit, I would like to commend Kirsty Pratt for her endurance, perseverance and commitment to the victims she shares such a horrible experience with. It was indeed my honour and privilege to meet so many of these women, and I personally know people who struggle on a daily basis as a result of acts perpetrated upon them as children by people in a position of trust. It is heartbreaking. I would like to see some of the individuals I went to primary school with and individuals within my extended family be able to get some redress under a scheme like this. I would like to see this legislation brought forward, and I would like to see my vote supporting it on the floor of this chamber so that we can see some justice in Western Australia for those victims.

Attorney General, please hurry those individuals in Parliamentary Counsel's Office on. Get in whoever it is you need to get this job done and prioritise this legislation. I know it will cost government, but my view is if organisations have not been responsible in looking after and caring for children, they just have to pay when they have failed in such a dismal way. That includes churches and all those organisations that were involved in these awful activities in the past. They failed in their duty of care and they just need to pay.

**MR J.E. McGRATH (South Perth)** [5.01 pm]: I rise to make a contribution on this motion. Two wrongs do not make a right. I was in the chamber last year when the private member's bill was debated. Personally and as

**Extract from Hansard**

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p5636b-5659a

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---

a member of government, I was extremely disappointed that we did not act with more haste on the private member's bill introduced by the former member for Eyre. My interest in it was raised when a constituent of mine—a man from Waterford—contacted me and wanted to know what we were doing about the private member's bill that had been sitting on the notice paper for some time; the private member's bill tabled by the former member for Eyre. I gathered that this constituent was a Liberal supporter and a supporter of mine, but he was extremely disappointed. I asked him why. It turned that he was a child migrant, like many others who came to our state as young boys, and he went to a Christian Brothers institution. We discussed his time there, and he said, "John, I don't want to tell you what actually happened—I do not like to talk about it. If you want to, you can go to the royal commission", where he gave evidence, "and you can see my evidence." I asked one of my staff to find the documentation and do a search on this gentleman. I will not name him because I do not think I need to.

After my staffer did a search on it I asked him what he found. He said probably the most horrific stuff he had ever read was inflicted on this young boy by the Christian Brothers. When I spoke again with the constituent I said I would be supporting the private member's bill of the former member for Eyre, but for some reason it was not moving. It had been discussed a lot in the party room, but this happens sometimes because governments do not really like putting through private members' bills, even if they are their own members. The government wants to put their own bills through. It is a fact of political life, and it will probably happen in this term of the McGowan government.

That was on 14 October 2016. I wrote to the gentleman. I quote —

I refer to your enquiry to my office regarding the status of the Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 which was introduced by Dr Graham Jacobs MLA on 12 November 2015.

It had been introduced 12 months earlier. The letter continues —

As you would now be aware, the Bill was further debated in the Legislative Assembly yesterday and was adjourned.

The state government supports the intent of the Bill which is that survivors of child sexual abuse should not be prevented from seeking compensation from those who caused them harm or from those who failed in their duties to keep them safe.

The government has demonstrated that it is committed to a fair and reasonable outcome for survivors of childhood sexual abuse. Under Redress WA and the Country High School Hostels Ex-Gratia Scheme, the Government has provided a total of 5,302 ex gratia payments to people abused in State care or a country high school hostel, at a total cost of \$150 million.

There is a need to fully understand the potential for unintended consequences, particularly what impact, if any, this proposed reform may have on the ability of benevolent organisations associated with the churches to continue to deliver services to the most vulnerable in our society.

Dr Jacobs' Bill raises a very import issue, but equally presents a series of challenging balances for the government to reach, and legislative change in this area requires further careful consideration.

As the Deputy Leader of the Opposition said, the government formed a cabinet subcommittee that she chaired, and it came up with a finding and recommendation.

By this time it was 28 February 2017—two weeks before we went to the polls. I again wrote to my constituent. I wrote —

I refer to my letter of 10 October 2016 and our telephone discussion regarding the issue of limitation periods for civil actions for child sexual abuse.

Since that time our state government has given further consideration to this matter through a Cabinet Sub-Committee and I am pleased to say that the government has adopted recommendations which have been put to it by that committee.

The Liberal National Government has committed to completely removing limitation periods for civil actions based on child sexual abuse, as well as serious physical abuse of a child and any abuse that is connected to the sexual or serious physical abuse.

The problem was that it was two weeks before the election, and we did not win. I have no doubt that we would have progressed this, but that is a "would if you could" situation sort of thing.

The wording of the Leader of the Opposition's motion is absolutely correct. It calls on the Attorney General to apologise for raising the expectations of victims of child sexual abuse when in opposition, and failing to deliver

**Extract from Hansard**

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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now that he is in government. I have no doubt that my constituent would have heard the words of the former shadow Attorney General in this place. I was here for the debate, and I heard all the then shadow Attorney General said. I doubt that this constituent voted for me at the last election because we had let him down. He probably voted for the Labor Party because it went to the election with the same promise we did, but we were tardy in our action.

When the former shadow Attorney General spoke about this matter in this chamber, he talked about the limitation period. He said that it was —

... to do away with the limitation period for actions brought by victims of child sexual abuse. As we know, under the Limitation Act, there is a six-year limitation period within which to bring an action or, after attaining the age of majority, a further six years from that date, which, for a child, would make the last cut-off date attaining the age of 24.

The former shadow Attorney General said that this is not good enough. He also pointed out that one of the royal commission's recommendations was that the eradication of the limitation period in child sexual abuse cases should occur. The former shadow Attorney General said —

Let me make it clear that this bill could pass this afternoon.

...

This should be a government bill. If this bill does not pass in this term of Parliament and Labor is elected at the next election, this will be one of the first bills presented to Parliament under an incoming Labor government, and it would pass the Parliament within the first month of Parliament resuming; it is such a simple bill. There is nothing to be said against this bill, although I understand that people within the government's ranks are diametrically opposed to this notion.

Earlier today in question time, the Premier said that the Liberal opposition wanted to sell all the state's assets. He challenged us by saying, "Go to the election and make it an election commitment that you are going to sell half of Western Power, you are going to sell Fremantle port and you are going to sell the Water Corporation. Take it to the people." This is an example of what happened when the former Labor opposition took it to the people and to the victims of sexual abuse, saying it was on their side. It was one of its election commitments. Eight months later, and nothing has happened. That is why we are raising this matter now. All we are saying is that it is all right when members sit on the government benches and throw the abuse and blame the former government for inactivity —

**Mr J.R. Quigley:** Eight years of it.

**Mr J.E. McGRATH:** That is all right. Now the government has an opportunity to do something about this. It went to the election saying that it could do it straightaway and the legislation would be its first commitment.

**Mr J.R. Quigley:** Read it again. It was to be one of our first bills. You read it right the first time.

**Mr J.E. McGRATH:** Yes. All I am saying is that it has taken eight months and a lot of work had already been done on it. The Attorney General would have done work on it when we were debating the member for Eyre's private member's bill.

I want to mention the current Speaker. He also spoke about this matter when he raised the issue of the people who were abused in Katanning. The member for Albany did a lot of work on their behalf. He was a champion for their cause. We heard him speak very passionately about the effects that that abuse had on those young people who were still suffering later in adult life. We all understand that. Money does not come into it but those things will live with those people forever. The member for Albany said —

To all members on the other side of the house, please think of the victims. There might be a bit of money involved. What bugs me is that when we were looking into this, people were saying, "You're only doing it for the money." That is rubbish. It is closure. These people have suffered all these years, and all they want is closure. They want to get on with their lives. Some of them have been carrying this guilt and these horrible things that happened to them for over 20 years. To members on the other side, I know that members on this side will vote for this bill. It is a very simple bill. For anyone who thinks it is a bad bill, that is their problem.

I was sitting on the other side of the chamber and siding with the member for Albany. We all sort of agree with him. Then the member for Midland, now the Minister for Police, spoke on the Limitation Amendment (Child Sexual Abuse Actions) Bill 2015. She said —

The opposition considers the Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 to be the most important bill before the house and one that needs to be dealt with as a matter of priority and in a timely fashion. This morning we saw an attempt by the opposition to offer to bring that bill on and deal

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with it in an hour. The government, in its intransigence, decided to waste over an hour and a half on discussion about whether to bring the bill on and deal with it promptly in the course of an hour. The government should show the courage of its convictions and vote on this bill. We should have the debate once and for all.

The Labor Party says one thing in opposition and when it gets into government, it puts it on the backburner. Does it really care about the legislation?

**Mr J.R. Quigley:** You'll vote for it.

**Mr J.E. McGRATH:** We will vote for it.

**Mr J.R. Quigley:** You voted against it last time but you'll vote for it this time.

**Mr J.E. McGRATH:** No, we did not vote against it.

**Mr J.R. Quigley:** I'll read out the division list when I get my chance.

**Mr J.E. McGRATH:** That is okay. The member is good at that; he is good at reading out lists. I have been on a few of them.

The member for Midland also stated —

I am not going to turn to the substance of the issue here, because a number of people have spoken on that last week and again today—the plight of victims, the urgency and the need for this to be put in place at the earliest opportunity. In the meantime, there may well be deaths from a range of causes. As we know, many victims of sexual assault commit suicide, as the member for Albany said last week. Indeed some of the victims met at funerals and got together. This is a most serious matter, and the opposition will not let go of it.

While in opposition, the Labor Party did not let go of it but it seems in government, it has let go of it for eight months. She continued —

We want to see this bill passed this year.

This was on 20 October 2016, my wife's birthday.

We do not think that it is acceptable that it wait another year.

It is already November, so the government has waited 13 months.

The government should step forward and, in my view, support the bill. If the government does not think it can support the bill because it is somehow flawed, it should explain what those flaws are, ...

We were criticised by the then opposition, the now government, because we were seen to have dillydallied on what it considered was very important legislation brought forward by the then member for Eyre. All we are saying today to the Attorney General is get on and do it. The public wants it. I would like my constituent in Waterford to have some closure at a late stage in his life. The ball is now in the government's court. We cannot do it as an opposition. The government can bring in this legislation. We will obviously support it. All we are saying is that the Labor Party cannot say one thing in opposition and then another thing in government. We copped the abuse and the criticism. When in government, you have to do that. But we wore it, and we obviously would have lost a lot of votes at the last election because of it. Now the Labor Party is in government. People out there are crying out for help and closure and we are asking the government to treat this as a matter of urgency.

**MR P.J. RUNDLE (Roe)** [5.18 pm]: I firstly acknowledge Kirsty Pratt and her husband in the gallery. I compliment Kirsty for her perseverance and the way she turns up to the public gallery every day. I am sure that the government is well aware of that. She is a fantastic advocate for the victims of sexual abuse. I am certainly proud of her effort in turning up here each day to represent all those people. It was also a pleasure to meet her husband this morning.

As the member for Roe, this is a very important issue, mainly for two reasons. The first is that I am a community member of Katanning. I was at Katanning Senior High School from 1975 to 1977. As it turned out, that was probably the worst period during which Dennis McKenna and the activities at St Andrew's Hostel were happening. Obviously at the age of 14 or 15, I was oblivious of it. Many of my friends attended the hostel and as time has gone on, I have seen the damage the abuse has done to many of those victims and the effect it has had on their lives and their families in the form of suicide, family and marital breakdown and so forth. This subject is very close to my heart. It is also close to the hearts of my constituents in not only the Katanning area but also the Esperance area. As has been discussed here today, the previous member for Eyre, Dr Graham Jacobs, moved a private member's bill in late 2016. He was my opponent at the state election but I certainly compliment him on his efforts advocating for the victims of child sex abuse and the likes of the Beale family, whom I have been in constant contact with in Esperance. I applaud their efforts and that of many other families in the Esperance–Condingup region who have been affected by this matter. In

some ways, I feel a sense of shame. Obviously, I was not in Parliament last year when the debate was going on; the member for Scarborough referred to it and said how it deteriorated into a pretty mediocre debate. I think we need to move on from that space. I am certainly looking forward to some movement from the Attorney General. He, along with the Premier, provided a list of excuses that have been wheeled out over the last few weeks. I will go into those shortly. I intend to keep the pressure on. I agree with the member for South Perth that there is absolutely no reason why this legislation cannot be introduced this year as per the promises of the Attorney General and the Premier late last year and early this year prior to the election campaign.

I acknowledge Kirsty and the other visitors sitting in the gallery tonight. The other week I met some other child sex abuse victims at the south entrance to Parliament. It was great to catch up with them. The Attorney General has also been communicating with them and keeping them in the picture. The result of passing this legislation will be immeasurable. I think it will bring hope to their lives. Living without hope renders people helpless and they feel as though they lack control over their lives. If we can get this legislation through, it will make a great difference to many of those victims. I would like to quote Mr Todd Jefferis from an ABC news article of 26 November 2017 when he said, "It would mean I could say this is the end and move on with my life." Mr Jefferis was one the victims at St Andrews Hostel, Katanning. He said that the ongoing psychological damage had been massive and caused him to doubt himself, to be reckless and to do stupid things. The Attorney General has let down people like Mr Jefferis until now, but I hope he can reinstate himself in the weeks ahead. Enabling a wronged and powerless person access to a process of redress is a very small thing the government can do for the survivors. It is an action this government promised it would do for sexual abuse survivors within the first days of its administration. That would make a great difference to the lives of those survivors.

I would like to add to my comments about the member for Eyre at the time, Graham Jacobs. I have caught up with Graham several times recently. He is back on the stethoscope at the Banksia Medical Centre in Esperance, doing a great job there. I have had the opportunity to talk to him briefly about this issue. As I said, I certainly congratulate him for his advocacy on behalf of the victims. I would like to read in a couple of quotes from members of the government. Further to the member for South Perth quoting the member for Midland, now Minister for Police, when she criticised the Barnett government for its delaying tactics surrounding the Jacobs' private member's Limitation Amendment (Child Sexual Abuse Actions) Bill 2015, she said —

... one that needs to be dealt with as a matter of priority and in a timely fashion, this is a most serious matter and the opposition will not let go of it. We want to see this bill passed this year. We do not think it is acceptable that it wait another year.

That was 20 October 2016. The government has been in for eight months and nothing has happened. Since 2014 the WA Labor Party has had a policy statement, and I quote —

- WA Labor would allow exemptions under the Statute of Limitations to allow child sexual abuse victims to sue for damages for crimes committed many years ago.
- ...
- WA Labor would also allow Class Actions to be taken in Western Australia.

The policies are there; the statements from its members are there. I would like to repeat something I think the member for Scarborough and the Leader of the Opposition referred to. On the day the Attorney General was sworn in, he said that his first priority was to lift the statute of limitations for victims of child sex abuse seeking compensation and to introduce no body, no parole laws for convicted murderers. The Attorney General made it very clear in his first statement straight after he was sworn in that this was his first priority and here we are in November. I refer also to a question I asked the Premier on 12 October about where was the legislation and what was going on. His reply was that they are working through a few complexities, including the commonwealth redress scheme and how to ensure organisations are accountable. As our member for Central Wheatbelt said at the time, "You didn't think there were any of those complexities last year?" I think this explains the delaying tactics— using the commonwealth legislation as an opportunity to delay this process. With regard to the commonwealth legislation, Victoria and New South Wales have already jumped on board with their legislation and Queensland and Western Australia, hopefully, will very soon join the ranks. Unfortunately, my understanding of the commonwealth legislation is that we have to wait for all the institutions, churches, religious organisation et cetera to jump on board and be part of that package. As far as I am concerned, the chances of that happening are very slim. We therefore need to deal with this as a state Parliament.

**Ms S.F. McGurk:** Will you take an interjection, member?

**Mr P.J. RUNDLE:** Not at this stage, thanks, member.

In the lead-up to the state election in 2017, the now Premier said that every day there is a delay, there is justice denied. I think that sums it up very well.

The other thing I would like to bring up is what the member for Scarborough spoke about. I believe tomorrow is the forty-third piece of legislation that will be introduced by the government since it has come into power. I find it extraordinary that we have not been able to find room on the agenda for the most important priority of the Attorney General and the Premier leading up to the state election. I will list a few of the bills that are on the agenda: the First Home Owner Grant Bill 2017, the Local Government Amendment (Auditing) Bill 2017 and the Constitution Amendment (Demise of the Crown) Bill 2017. Honestly, the Attorney General has carriage of three of the bills: the Court Jurisdiction Legislation Amendment Bill 2017, the Courts Legislation Amendment Bill 2017 and the Coroners Amendment Bill 2017. Following on from that is the Port Kennedy Development Bill 2017. The one that really gets me is the Animal Welfare Amendment Bill. No-one can tell me that any of those bills are more important than the legislation that we are talking about today.

**Mr J.R. Quigley:** Is it more important than the genetically modified crops free areas bill?

**Mr P.J. RUNDLE:** As far as I am concerned, it is.

**Ms M.J. Davies:** This is about your priority and what you said to the government.

**Mr P.J. RUNDLE:** I am talking about my priority as the member for Roe and the priority for those victims, including Kirsty in the public gallery. As far as I am concerned, this is the number one priority. I agreed with the Premier and the Attorney General when they said that this was their first priority coming into government.

I want to mention also the Royal Commission into Institutional Responses to Child Sexual Abuse, which has been mentioned today. I speak, at times, with Andrew Murray, one of the royal commissioners. I was fortunate to be a member of the Western Australian Regional Development Trust, which Andrew chaired. I really admire the royal commissioners and the work that they have done with the difficulties they face. It is ongoing, of course, and it has been going for many years. The royal commission has paved the way for the state government to progress legislation for redress for the victims. As I said, Victoria and New South Wales have already done it and this is our opportunity as a state to continue that.

In summary, the Premier promised Kirsty Pratt, in the gallery, the Beale family and the many other victims from St Andrew's Hostel Katanning and elsewhere that this would be the first legislation that he would introduce. The Attorney General said that this is his highest priority, yet he has presided over 30 pieces of legislation, three of which he has carriage of, and we have got nowhere there. The members for Scarborough and Central Wheatbelt were members of a cabinet committee, which paved the way for legislation after the debates of late last year and the bill that Dr Graham Jacobs introduced. As I said, I am sure that there is bipartisan support. I agree with the member for South Perth, who has expressed support for it. I support the proposed legislation and I ask the Attorney General to get on with it and bring on this legislation because I want to go back to the victims and my constituents and tell them that the Parliament of WA has done its job.

**MR S.K. L'ESTRANGE (Churchlands) [5.33 pm]:** I believe that the former Liberal–National government let the victims of child sex abuse in WA down on this issue. We are not proud of not passing a bill to address this issue. As a member of the former Liberal–National government, along with many of my colleagues, I personally apologise. I say sorry for us, in our eight and a half years of government, not passing a bill to address the issue and remove the statute of limitations for victims of child sex abuse.

**Mr M. Hughes:** Why didn't you?

**Mr S.K. L'ESTRANGE:** Member, I am apologising on behalf of me and the former government. The answer to that question is something that we are debating now.

**Mr M. Hughes:** You have found a different line.

**Mr S.K. L'ESTRANGE:** If the member wants to politicise my apology, he is missing the point of what I am doing. If he could let me speak.

**Ms A. Sanderson** interjected.

**Mr S.K. L'ESTRANGE:** I am getting interjections from ministers now saying that it is shameless —

**Ms S.F. McGurk** interjected.

**Mr S.K. L'ESTRANGE:** Sorry; I thought it was the member for Fremantle. The member for Morley is saying that apologising to victims of child sex abuse is shameless.

**Ms A. Sanderson:** This approach is shameless, member.

**Mr S.K. L'ESTRANGE:** Can the member give me the opportunity —

**Extract from *Hansard***

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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**Ms A. Sanderson:** I was only in the other place. I could see what happened over here.

**Mr S.K. L'ESTRANGE:** Member for Morley, if I could have the opportunity to address this issue, that would be much appreciated. As I said, as a member of the former Liberal–National government, along with, I am sure, many of my colleagues, I apologise for not getting a result, because that is what is at stake here. Nobody in this place—it does not matter what side of politics we are on—would argue against trying to remove a statute of limitations for victims of child sex abuse. The member for Kalamunda would not. The Attorney General would not.

**Mr J.R. Quigley:** One person is on the record as being opposed to it.

**Mr S.K. L'ESTRANGE:** Let us not play the politics of the Jacobs bill. Let me speak to today's debate. We as a Liberal–National government failed to get a result. That is a given. Nobody on this side of the chamber is arguing that. Let us not try to make out that we should have done better, could have done better and would have done better, because we are accepting that we did not do well enough. That is a given, member for Kalamunda.

**Mr M. Hughes** interjected.

**Mr S.K. L'ESTRANGE:** Let me continue with this debate. This should not be about politics. This should be about results and leadership to ensure that those results are achieved. That is what this is about—nothing else. If members try to go back to the Jacobs debate in *Hansard* and argue the case that we should have passed that bill at that time, I have already said that yes, we probably should have. I will get to that in a moment, member for Kalamunda, and the rationale for why the leadership of the government of the day did not. The point is that the result was not achieved. We were responsible when we were in government and we did not achieve the result. Let us move to what we are discussing today.

We are now dealing with a motion that is about achieving a result to remove the statute of limitations for victims of child sex abuse. The Attorney General has basically said that he will use lawyer-speak to try to tie us to Dr Graham Jacobs' private member's bill last year, when it has nothing to do with the motion today. Today's motion is about the leadership of the new government in addressing this issue. I refer members in this place to an article written by Nicolas Perpetch, dated 17 January 2017 for ABC news titled "WA election 2017: Pledge to lift limits on child abuse victims seeking damages". I recommend that all members read the article, which steps through what the Premier of the day said that the Liberals would do if they got back into power and how they would go about it. The article also stated that Labor had pledged to lift the restriction for child abuse victims if it won government. Both sides were saying that they would go to the election and then deal with this matter properly.

At the time, Mr Barnett praised Dr Jacobs' work in raising awareness of this injustice in Parliament. He said that the revised legislation was already being drafted and that the reason the leadership of the Liberal–National government of the day did not pass the Jacobs bill was that it determined in its wisdom that the bill had flaws that needed to be rectified. Again, that happened just prior to the government going into caretaker mode. That is not an excuse. It could have been dealt with a lot earlier, member for Kalamunda, but it was not. As members know, Parliament rose in early November, and we were leading into the election. It absolutely could have been dealt with earlier, but the bill had flaws that the leadership of the Liberal–National government of the day said needed to be fixed.

The government of the day put together a subcommittee, chaired by the then Deputy Premier, Liza Harvey, to examine the issues and to make recommendations that the statute of limitations be removed and how that could work. The work was being done and the bill was being drafted so that if the Liberal–National government got into power, it would be ready to go. That is the context of how the Liberal–National government was heading into the election in March 2017.

At the same time, the article stated —

Opposition Leader Mark McGowan has previously said removing the statute of limitations would be a priority for a potential Labor Government.

But back in October, and I quote —

... he warned the delay by failing to pass Dr Jacobs' private member's bill would have severe consequences.

He went on to state, and this is a Mark McGowan quote, the Leader of the Opposition of the day —

"Every day there is delay there is justice denied, and we know that for a fact because we saw that with the asbestos companies," Mr McGowan said.

I also acknowledge the hard work of Kirsty Pratt—I acknowledge her and her husband here in the gallery today. The article quotes Kirsty Pratt. First of all, the article states —

... Kirsty Pratt was highly critical of the Government's rejection of Dr Jacobs' bill last year.

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She later backed WA Labor's commitment to abolish the statute of limitations, saying "our only recourse is to change our government".

That was quoted in that article in January. It goes on to state —

However Ms Pratt has cautiously welcomed the Government's —

That is the Liberal–National government —

proposed changes, after originally describing its handling of Mr Jacobs' legislation as a "circus".

"At the time it certainly was very upsetting and I did use the words I used ... it did seem very cold and dismissive," she said.

"But they seem to have gone through a very rigorous process and I'm quite impressed with what we've come out with.

"I will be celebrating when it becomes law."

I have acknowledged and apologised for the fact that the Liberal–National government did not address this issue when it was in power for all victims of child sex abuse—those who are here in the gallery, those out in the community and those who will read today's debate in *Hansard*.

The government was too slow, but it was working. It worked with Kirsty Pratt to try to plug the gaps in the Jacobs bill. We, as the former Liberal–National government, acknowledge that the work Graham Jacobs did was commendable. He was tireless in his endeavours to try to get this front and centre with government. I cannot say what happened in party room meetings, but I can say that his leadership on this issue, to be heard, to be a voice for victims, was second to none. He pushed this through. He should have had better support from the government of the day to make sure that that bill was robust and the flaws that the lawyers would have found would not have been blocked so it could have worked effectively. As I said, that was not achieved. At the very least, going into the 2017 election the government was working with Kirsty Pratt and others to fill the gaps in the Jacobs bill to make sure a draft bill could achieve the intent that was needed and to bring it back, as I said earlier, so that the statute of limitations for victims of child sex abuse would be removed.

I am concerned that the Attorney General will get to his feet today and ignore everything I have just said. I hope he does not, but I fear that he will ignore everything I have just said. Instead, he will go to the Jacobs bill and try to read into *Hansard* the vote on the Jacobs bill. The government of the day decided not to support the Jacobs bill but instead decided to form a subcommittee, led by the Deputy Premier of the day, to work with the victims of child sex abuse to draft a bill that would work. In hindsight, we could have passed the Jacobs bill. We could have said, "Done." It would not have achieved the intent, because the bill had flaws in it, but it would have got this matter off the political agenda. When we were re-elected we could then have said that even though the bill was passed, we needed to amend it to fix it. That would have dealt with the politics of the day. But the leadership of the Liberal–National government of the day made the decision to do it properly—unfortunately, the proper approach—late in the game. I accept the member for Kalamunda's point that it was late in the game, but the then government decided to do it properly late in the game. Politically, that was not a wise thing to do.

**Mr M. Hughes:** *Hansard* will show that.

**Mr S.K. L'ESTRANGE:** *Hansard* will address the issue of the private member's bill that was flawed. The government said, "No, we are going to come up with an alternative. We'll bring a proper government bill into this place and we'll move that bill through the Parliament and get the job done that way." That was the decision of the day.

I accept that it could have gone two ways. That is what I am trying to communicate to members. We could have gone with the Jacobs bill and passed it, but it probably would have ended up back in this place because the upper house would have seen the flaws in it. It would have sent the bill to a committee to fix those problems and it would have ended up back in the Legislative Assembly. But it would not have come back in time because it was October. That process would have been lost. The government of the day was honest and truthful with the people of Western Australia. It was not going to pass the bill because it would not have done what it was purported it would do. It wanted to do it properly.

We lost government. This issue was a key commitment of the then shadow Attorney General. A key commitment of the now Premier was to remove the statute of limitations for child sex abuse as a priority. That is what the Labor Party said. It said that we had failed—I agree; we did—and that it would not fail. I am sorry, but here we are eight months in and there is still no result. In my book, that is failure.

**Mr J.N. Carey:** After eight and a half months?

**Mr S.K. L'ESTRANGE:** Yes, member for Perth, it has been eight and a half months.

If this matter had been a number one priority, member for Perth, then the government should not have sat on its hands and allowed other legislation to move through this place and the other place at the expense of what the government said was a priority to victims. That is what is at issue here. That is why this motion —

**Mr J.N. Carey:** Eight and a half years; eight and a half years.

**Mr S.K. L'ESTRANGE:** Member for Perth —

Several members interjected.

**Mr S.K. L'ESTRANGE:** I am not sure, Mr Acting Speaker, whether the member for Perth was here when I opened with an apology. I acknowledged that we had failed in eight and a half years—done. I am not sure whether the member for Perth was here when I said that the issue here was that we worked to go to an election with a fix. The issue at play here, and this motion, is about noting the failure of the McGowan government to introduce legislation to remove the statute of limitations for victims of child sexual abuse, which it said was a priority, and calls on the Attorney General to apologise for raising the expectations of victims of child sexual abuse when he was in opposition and failing to deliver now that he is in government. That is what this motion calls for. If members want to continue to tell me that my apology is irrelevant, they can do that. If the members opposite want to impute that my apology is insincere, they can do that. That is their decision.

**Mr D.J. Kelly:** I'm saying your criticism of us is disingenuous. You have to sleep with your apology; I'm talking about your criticism of us. It's disingenuous.

**Mr S.K. L'ESTRANGE:** We will leave the minister time on the clock to explain to the victims and the people of Western Australia why the Labor Party went to an election saying that this issue was a priority and the Premier and Attorney General have said that it is a priority, but here we are about to enter, after this week, the last two weeks of Parliament, and we still have not seen the legislation that the government said was a priority in its first year of government. We will give government members the opportunity to explain that.

If the Attorney General chooses to go into the past to say that we did not do good enough, and we did not achieve it, he is wasting his breath, because I have just done all that for him. If the Attorney chooses to spend his time on the clock to go over the past, that is up to him, but he needs to focus on what he, as Attorney General, and his cabinet and his executive have not done, and what they are going to do, and when they are going to do it.

**Mr D.J. Kelly:** We've done more in eight months than you did in eight years.

**Mr S.K. L'ESTRANGE:** The member for Bassendean must be a bit of a slow learner, because I have repeated time and again —

**Mr D.J. Kelly** interjected.

**Mr S.K. L'ESTRANGE:** That is what I said—slow to learn. The member is obviously not learning.

**Mr D.J. Kelly:** You really need to think about the terminology you use.

**Mr S.K. L'ESTRANGE:** The member for Bassendean will use any cheap shot he can without focusing on the serious issue at hand. Members opposite—members for Bassendean and Butler—will have an opportunity to get to their feet to explain to the people who voted them into office, many of whom would have voted them into office on this issue, why the government has not stuck to its priority and introduced the legislation that it said it would introduce, and what it is going to do about that now. The government should commit today to a time line of when this legislation will be brought to this place, because it has not done that yet. I think that is shameful. The Labor Party went to an election committing to the people of Western Australia and victims of child sex abuse that it would do this, but it has not delivered on its commitment to them. The government needs to deliver on its commitment to them.

**MR C.J. BARNETT (Cottesloe)** [5.52 pm]: I will be very brief. I listened to the member for Churchlands' comments and I just want to add perhaps some explanation.

The abuse of children is a horrendous situation. Unfortunately and tragically, it goes on prevalently in Western Australia today, and we have to be brave enough as members of Parliament to acknowledge that. In the time preceding the previous government, former Speaker Michael Barnett raised the issue of child migrants in this Parliament. That issue is not resolved. The federal government is now talking about another redress scheme. There was a redress scheme in Western Australia that was paid out during the time of the previous Liberal–National government—albeit at a reduced rate, but nevertheless I think well over \$100 million was paid out. We also had the issue of the abuse of boys—now men, obviously—at St Andrew's Hostel that was raised by the now Speaker.

We immediately appointed Justice Peter Blaxell to conduct an inquiry, which he did very quickly. We immediately set up a redress scheme, and in almost record time provided compensation for those affected.

With respect to the matter of the statute of limitations for child sexual abuse, that issue was raised by the former member for Eyre, Dr Graham Jacobs. I think Graham would regard raising that condition as his most significant achievement as a member of Parliament. Hopefully, that is respected by all members today. Graham chose to do it by way of a private member's bill, as he was entitled to do, but that denied the drafting of the bill having the full input of different government agencies on legal issues and the like. The lawyers looked at the bill and had different points of view about different legal matters—maybe the current Attorney General might comment on that when he gets up.

**Mr D.J. Kelly:** Why didn't you do your own bill?

**Mr C.J. BARNETT:** We looked at it. We had a cabinet subcommittee chaired by the Deputy Premier of the day.

**Mr B. Urban** interjected.

**Mr C.J. BARNETT:** Let me speak. Show a little bit of respect, because this issue deserves some respect for the victims, if nothing else.

**Mr B. Urban:** You're rewriting history.

**Mr C.J. BARNETT:** No, I am not rewriting history. I am telling members what happened and what I did as Premier.

There were flaws in the private member's bill drafted by Graham Jacobs. Graham, to his credit, when the committee chaired by the then Deputy Premier, the member for Scarborough, reported, recognised and accepted that there were flaws. As the member for Churchlands said, we could have simply agreed to the bill Graham Jacobs brought forward, because there was no dispute in the Liberal Party about what he was promoting. Every single member agreed, as I am sure every single member in this house agrees, that the statute of limitations for child sexual abuse in institutional care should be lifted. There was no dispute about that. I tell members that as Premier, the reason I hesitated—members opposite can criticise me for this, but I have seen it before in my long political career—was that the expectations of people, particularly expectations of victims, be raised and then not delivered. That was my great fear and why I took a cautious approach. I did not want victims of child sexual abuse to see a bill go through Parliament and believe that they had legal rights that they did not have—that if they chose to, they could take civil action and get compensation. I am sure the Attorney General will probably comment on some of the limitations. Victims may have been in the institutional care of a charity or a religious organisation, but the legal status of that had probably changed—probably several times since they were in care. They may have found that there was no-one to take legal action against. I did not want those victims who were suffering in their middle age and in some cases older age to believe that they had a clear and simple legal right that would be effective, because they did not. Yes, there might have been flaws and technical issues with the legislation, but the reason—if members want to criticise, I accept that: criticise me and the government I led—was to make sure that people did not have unrealistic expectations, only to be defeated and disappointed in a legal process. If members think that is wrong, they can think that. I actually think it was the right and proper, and actually compassionate, thing to do.

**MR J.R. QUIGLEY (Butler — Attorney General) [5.57 pm]:** I am not going to deliberately waste time on the clock as the member for Churchlands has done by going back too far into history, but the correct sequence of events has to be put on the record. Before I put the correct sequence of events on the record, I would like to repeat: the lifting of the statute of limitations in relation to historical child sexual abuse is a priority of the McGowan Labor government, and a bill will shortly be presented to this Parliament. I will say more about that bill in a moment.

We must go back and examine the record. I hear what the member for Cottesloe said. I have paid attention and heard what each of the members have said. Perhaps with the passage of time, with all the events that have happened in the last 12 months to former government members on this and many other issues, things have got a bit foggy. Former member for Eyre Dr Jacobs was an advocate for victims of child sexual abuse—all credit to him. He prepared a private member's bill and brought it to this chamber. It came to this chamber on Thursday, 12 November 2015. What was the then government's attitude to that bill? When Dr Jacobs brought the bill forward, the then Leader of the House, the member Kalamunda, Hon John Day, moved this motion —

That so much of standing orders be suspended as is necessary to enable the second reading of the Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 to be moved during time when government business has precedence.

Mr Day then went on —

The government has agreed to the member for Eyre introducing his bill. He has given a commitment to take no longer than 15 minutes. It is not the usual process for private members' business to be introduced during government time, but we have agreed to that occurring with this bill. The government has not seen the bill, so it does not have a position on it, but is happy for the member to introduce the bill and to get it into the public arena.

**Extract from Hansard**

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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He delimited the member to 15 minutes in which to read the bill in and do the second reading speech. That happened on 12 November 2015. The government of the day would not give him any further time subsequently to bring on the bill for debate. So on 13 October 2016, Mr Day moved a further motion to suspend standing orders to allow the debate to be taken. Mr Day said —

This bill was introduced by the member for Eyre. It is a private member's bill, but the government has indicated that it will at some stage make time available for debate on the bill. If there is time later today, that may be this afternoon, or it may have to be on a later day.

**Mrs L.M. Harvey:** Did you give it priority in your private members' time?

**Mr J.R. QUIGLEY:** This was Mr Day's motion to move that so much of standing orders be suspended to allow its debate. On that same day, I spoke to that suspension motion and referred to what the Leader of the House said. I said —

Although it was on the notice paper for today, —

That was Mr Jacobs' bill —

it was not scheduled to come on this afternoon, but as a result of further negotiations, a small time has been allotted to it this afternoon. The government has said that it will take one speaker from the opposition this afternoon and then adjourn further consideration of the bill until a future time, and the chamber will return to the Genetically Modified Crops Free Areas Repeal Bill.

The government of the day did not want the bill debated; it gave it no priority. It said that only one opposition member could speak, and that is why I asked the member before which bill he would have given precedence to. The former government gave precedence to the Genetically Modified Crops Free Areas Repeal Bill. I asked the member that question because he is from an agricultural area. The government gave precedence to that bill and allowed only one speaker on the Limitation Amendment (Child Sexual Abuse Actions) Bill. I then said that if a Labor government was elected, this bill would be a priority. It is to be remembered that a previous Redress WA scheme was introduced by the Labor government, with a maximum compensation amount of \$90 000. On the assumption of office by the Liberal government, it halved the Redress scheme maximum amount to \$45 000. At that time, the Premier conceded that the money was not adequate compensation. He informed the Parliament —

... if people receive an ex gratia payment, there is no limitation on them proceeding to seek civil damages, so there is no caveat attached to that.

In responding to the former Premier's statement that the ex gratia payment was insufficient and there would be no limitation on victims seeking civil damages, that, if I can use the terms of the motion before the chamber today, raised the expectations of the victims. They went to their lawyer, Mr David Bayly, and Bradley Bayly Legal, who were the solicitors for the victims, with the Premier's statement. The solicitors then wrote to the Attorney General in view of the statement and sought an undertaking from the Attorney General that if they introduced a suit in the District Court for damages, the state would not plead the limitation period because the Premier had acknowledged that the compensation was inadequate and that the way was open for the victims to seek civil remedy. The Attorney General then wrote back and stated —

I will not give an undertaking, on behalf of the state not to plead a limitation defence in respect of any claims ... on behalf of your clients, nor would I recommend that any statutory body corporate waive any relevant limitations provisions if a claim were to be made against them ...

He shut the gate on the victims, notwithstanding what the Premier of the day had told the victims. It has been said, and it was postulated by the members for Scarborough and Churchlands, that there would not be a person on either side of the chamber who would be against this proposition now, and nor was there; it was only that time ran out. However, the former Attorney General Mr Mischin, in explaining to the media at *Perth Now* on 10 August 2013, over three and a half years before the election, said —

... the reluctance to waive limitations provisions arose from a number of policy factors —

That is policy factors of the former Liberal government —

recognising that lengthy time lapses between crimes and compensation increased the likelihood of miscarriages of justice and "carries with it significant direct and indirect costs".

One member of this Parliament was unequivocally opposed to lifting the statute of limitations. In the words of Dr Jacobs, the former member for Eyre, he was referring to the former Attorney General having his foot on the hose.

**Mrs L.M. Harvey:** He wasn't against lifting the statute. He said that the legislation wouldn't work.

**Mr J.R. QUIGLEY:** That is not what he said here.

**Mrs L.M. Harvey:** They are two different things.

**Mr J.R. QUIGLEY:** Sorry; I will take that interjection. The member for Scarborough said that he was not against lifting the statute of limitations; he was against the actual provisions in the bill. I just remind the member for Scarborough that this statement by the former Attorney General was made on 10 August 2013, some two years before Dr Jacobs brought in the bill, so he was not referring to Dr Jacobs' bill or its terms. This happened two years before Dr Jacobs drew up his bill. I will just go over that again. The former Attorney General said —

... from a number of policy factors recognising that lengthy time lapses between crimes and compensation increased the likelihood of miscarriages of justice and “carries with it significant direct and indirect costs”.

This happened two years before the Jacobs bill. The former Attorney General was opposed to it on policy grounds and he enunciated his policy grounds. The Jacobs bill sat on the notice paper for two years. I will just get the exact date. I read into the proceedings earlier today the exact date upon which he introduced the bill. I am sorry; it was over a year. He introduced it in late 2015. On 20 October 2016 I moved —

That so much of the standing orders be suspended as is necessary to enable —

- (1) debate on the question, “That the Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 be read a second time”, be resumed forthwith; and
- (2) if the debate is not concluded earlier, at the expiration of 60 minutes of such debate for the Chair to put the question without further debate or amendment.

I did that because the former member for Eyre was given only 15 minutes to introduce his bill, and on 13 October, when many victims were in the gallery, he was given a short time to address the bill. There was then allowed only one opposition speaker before the government moved back to the Genetically Modified Crops Free Areas Repeal Bill. Do not talk to us about priority of legislation. It was before the house, and the then government let only one person speak on it.

A week later I moved a suspension of standing orders to debate the bill. During the motion for the suspension of standing orders, the then government defeated that motion so that there could not be a debate on the bill. I note that the former Premier voted against the suspension of standing orders to permit the debate, as did the members for Scarborough, Riverton and Churchlands. They all voted not to allow the suspension for the debate on the bill to occur. It was a cynical stunt on 13 October. Because there were victims here the then government wanted to appear as though it would entertain debate on this bill. They let Dr Jacobs and one opposition speaker go on that day, and then stopped the debate so the genetically modified crops repeal bill could be argued. Then when we sought to bring it on a week later, by moving a suspension of standing orders, it shut that debate down too. The opposition has the nerve to come here today and move a motion on the failure of the McGowan government to introduce legislation to remove the statute of limitations for child sexual abuse that it was said was a priority. We will introduce that bill this year —

**Mr S.K. L'Estrange:** When?

**Mr J.R. QUIGLEY:** Just wait.

We will introduce that bill this year and we will challenge the opposition. Member, will you be voting for it?

**Mr S.K. L'Estrange:** Show us the bill.

**Mr J.R. QUIGLEY:** Will you be voting for it?

**Mr S.K. L'Estrange:** What? You want a blank cheque?

**Mr J.R. QUIGLEY:** Will you be voting for it?

**Mr S.K. L'Estrange:** Show us the bill!

**Mr J.R. QUIGLEY:** After all that and after your apology! I am sorry; the apology sounds a little hollow to me, and it might sound hollow to some of the victims in the gallery if the member for Churchlands is not prepared to say he will support it. Only 20 minutes ago you said the opposition will support the bill. When I said we are actually going to introduce it this year, you have gone —

Several members interjected.

**The ACTING SPEAKER:** Members!

**Mr J.R. QUIGLEY:** When we are coming to the barrier now, when we are about to walk through the gates on the white picket fence and get onto the arena, the member for Churchlands goes to water and says, “Oh well, we

don't know. We won't commit to doing it." You will not commit to doing it. Will you commit? When we bring it on, will you commit to treating it as an urgent bill?

**Mr S.K. L'Estrange:** Of course.

**Mr J.R. QUIGLEY:** So you will treat it as an urgent bill? I will ask a further question: when we got to no body, no parole, you, member—once again I am talking to the member for Churchlands—did apologise on that occasion, too, and I accept his sincerity in that regard. But this Parliament has not passed this bill because it has been held up in the committee for months and months and months.

**Mrs L.M. Harvey:** That is because the leader of the Labor Party in the Legislative Council did not negotiate with the backbench.

**Mr J.R. QUIGLEY:** Are you going to kick off? Are you going to send the statute of limitations repeal bill off this year to a committee and hold it up there too, or are you going to deal with it expeditiously? You have committed to dealing with it as an urgent bill. The whistle will blow, member, the ball will go in the air, the game will be on: are you going to go to water and not vote for the bill? You will vote for our bill! I know you will vote for our bill! You will not, after all this carry-on, have the temerity not to vote for it.

Now I will get to the next point. The member for Cottesloe says the reason the Jacobs bill was not supported by the government was because it was flawed and it wanted to do it better. In fact, the Jacobs bill was never allowed to be debated. We sought to suspend standing orders to debate it, and that motion was defeated by the then government. Although the opposition this evening now says the only reason the Jacobs bill did not get up, according to the member for Cottesloe, was that it was flawed. In the period that elapsed between it being read in on 12 November 2015, and 14 months later on 13 October 2016 when the then government allowed one person to speak on it before I moved the suspension of standing orders to allow the substantive debate on the bill, not once during that period did the government approach the State Solicitor or Department of the Attorney General to come up with any amendments to the bill. This is just fluff that they have come up with today. I have communicated with the State Solicitor's Office because I wanted to find out the amendments that might have been suggested during the 11 months it was on the notice paper—there was nothing! The former government did not do anything at all about the Jacobs bill. It did not get advice as to its adequacy or inadequacy, it did not go to the SSO and say, "Can you come up with any amendments for this bill? Can you rewrite this bill?" We have an insight as to what actually happened with that bill from the very well informed member —

**Mr S.K. L'Estrange:** Show us your bill! Show us the new bill! Bring us the bill!

**Mr J.R. QUIGLEY:** You will get it. You will get it, and you will vote for it.

**Mr S.K. L'Estrange:** Bring it on tomorrow! Attorney General, bring it as on an urgent bill tomorrow!

**Mr J.R. QUIGLEY:** You are the manager of opposition business in this chamber, not the leader of government business. In about 2030 you might have the chance to be the leader of government business in this chamber!

**Mr S.K. L'Estrange:** Will you still be here, member?

**Mr J.R. QUIGLEY:** I will have had my requiem mass by then, member—it will all be over, red rover! But I will be looking down and saying, "He eventually got there"! I might be wrong; it might be 2034!

During the whole 11 months that elapsed, nothing at all was done about the Jacobs bill. No critique was sought from the Solicitor-General, no input was sought from the State Solicitor, there was just an event later on saying the bill was flawed.

As the member for Cottesloe said rather disingenuously, a cabinet subcommittee was established, chaired by the member for Scarborough, to look at this very question. The part of that story he missed out was that that subcommittee was formed by cabinet in January 2016—a couple of months after Parliament had prorogued.

**Mr D.J. Kelly:** In 2017.

**Mr J.R. QUIGLEY:** Was it 2017? I am sorry. That was after Parliament has prorogued.

**Mrs L.M. Harvey:** No, member, it was formed in late 2016 —

**Mr J.R. QUIGLEY:** It was after Parliament prorogued.

**Mrs L.M. Harvey:** — and then the recommendations were made after the Parliament was prorogued.

**Mr J.R. QUIGLEY:** It might have been December. It was after Parliament prorogued. I can remember the announcement: it was not while Parliament was sitting. Parliament had got up and then it was announced that a cabinet subcommittee would be set up. Before the election campaign, the Liberal Party said that it would

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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introduce the bill. It did not make a promise that it would get around to doing it, it did not give a time line for it and nor did it in any way aver to that question that the member for Cottesloe has now raised, which the Solicitor-General encapsulated as the identification of the true defendant. That was never mentioned by the cabinet subcommittee in its subsequent announcement to the public. This cropped up during 2017. The member for Cottesloe has now latched onto my concerns about the identification of the true defendant and said that that is what the Liberal Party was trying to deal with during 2016. The first time that the identification of the true defendant was raised was during my consultation with the Solicitor-General, and I brought it to this chamber. I am very grateful to Mr Quinlan, SC, our very high-class, conscientious Solicitor-General, for raising that. Not only did he raise it, but also he has been working assiduously —

**Ms S. Winton** interjected.

**The ACTING SPEAKER:** Member for Wanneroo, your own Attorney General is on his feet.

**Mr J.R. QUIGLEY:** The Solicitor-General has been working very hard to come up with a few clauses that will deal with not only the identification of a true defendant, but also a clause that will pierce the trust—I do not mean “trust” as in “I believe you” but the legal entity—behind which the assets of these organisations are hidden and protected. It has to be constitutional and it has to get there. This never arose during 2015 or 2016 as a reason the former government could not address this very important issue. Even in the royal commission, recommendations 85 through 88 do not address that either. Recommendation 85 is that the limitation be removed. Recommendation 86 is that it be removed retrospectively and that the courts should expressly preserve the relevant court’s existing jurisdictions and that state and territory governments should implement these recommendations to remove the limitation periods.

It was not until I sat down with the Solicitor-General and went through this that we had to face this very complex problem of piercing the legal veil of trust law and doing so in a way that would be beyond constitutional challenge. I am happy to say that we have arrived at a position in which I am confident that it will be the best legislation in Australia in lifting the statute of limitations. It will not just lift it; it will lift the protective veil of the trust. It will allow for the proper identification of the true defendant—that is, the set law of the trust that really owns the assets—and it will offer a pathway for plaintiffs to recover against those assets. It is complex, it is very important and, without it, those children who were abused in non-state institutions will have an uncertain path to recovery.

There are other complicating factors that I wanted to take on board during the preparation of this legislation. Hon Christian Porter, the Minister for Social Services in the federal Parliament, announced a redress scheme. At the time of announcing the redress scheme, little information was offered other than that there would be a national scheme. It was uncertain how that redress scheme would impact upon victims’ rights at common law to sue. It was uncertain who would be guaranteeing the payments. Which institutions or organisations would be covered by the redress scheme was uncertain and remains uncertain. We wanted to ensure before we put the legislation before the Parliament that we had some knowledge or, if it was not certain knowledge, a good fix on where the commonwealth was coming from, because there still may be many people who will find it too traumatic to institute civil proceedings. Maybe the commonwealth wants to offer redress to those people.

The member for Cottesloe made a good point, because he went right back three speakers ago, or longer than that. I understand that Mr Barnett had been a child migrant. The member for Cottesloe has previously made the point that the Australian government embarked on a scheme of child migration to Australia after World War II. It brought many, many orphans to Australia. Some were orphans and some were subsequently found out not to be orphans but they were taken away from institutions in the United Kingdom, believing that they were orphans, and brought to Australia and not looked after by the commonwealth. I was going to say that they were dumped but that might be unfair. They were placed in state institutions or non-government organisations wherein they were abused. As the member for Cottesloe has said, it appears that the commonwealth is trying to wash its hands of its responsibilities to this cohort of children that it was responsible for bringing to Australia and then placing in both our state institutions and our non-government organisations—church institutions and charitable institutions—to look after these children, and did not keep a very close watch on them. It would appear from the commonwealth’s position that it now wants to wash its hands of these people it brought to Australia and for whom it had a duty of care. It placed them in these organisations and now it appears that the commonwealth wants to wash its hands of all responsibility and say that it is the problem of the Western Australian government or the Catholic Church: “Count us out”. It appears that the commonwealth’s position might be that it is responsible for children only because some of them were minors who were sexually abused in military establishments like naval bases and the like or Indigenous children who were in the Northern Territory under the commonwealth’s care. But otherwise, it appears that it seeks to disavow any responsibility for the children it had a duty of care for in bringing them out here as child migrants.

We wanted to see whether there were any hooks in this. The first of those conferences with the commonwealth happened only in late June or early July. Then we were told that there would be a further conference in Sydney on 15 November. We are not going to wait until 15 November because we already have a fix on where the commonwealth is coming from. It is not helping and it is not accepting responsibility. Even at one stage, until the

states unanimously jacked up, it wanted the states to be the funder of last resort. We should just think about that for a moment. The commonwealth's initial proposal was that it set up a redress scheme through a tribunal or a board in Canberra somewhere where victims could go. They would have three levels of compensation—\$50 000, \$100 000 and \$150 000, depending on whether they are graded as class A, B or C victims. The public servants there would do that grading and make the award. Under the commonwealth's "thunder of last resort" first proposals, the person receiving their award from the tribunal would simply take the award back to the Western Australian government as the thunder of last resort and say, "Give us the money." Not only were we to accept responsibility for all the child migrants and people in commonwealth care, but also people who could have been in church organisations with considerable assets and who got an award, would then turn to the state of Western Australia to pay that award. In other words, the consequence of compensation would not lie with the organisation that committed the tortious acts of abuse. As I understand the latest position, all the states rebuffed the commonwealth in that regard, saying that they are not the thunder of last resort; they are not the final insurance company under that scheme. We have had to consider all these complex issues along with, as I said, the identification of defendants and a pathway to the assets. As I have said, my last communication from the State Solicitor's office and from the Solicitor-General of Western Australia is that this Parliament will be proud to pass the best legislation in Australia. However, the member for Churchlands equivocates and says that the opposition does not know whether it will support it or not.

**Mr S.K. L'Estrange:** I didn't say that.

**Mr J.R. QUIGLEY:** Yes, he did; he said that he did not know whether they would support it. Show them the bill. They will see the bill.

**The ACTING SPEAKER:** Members!

**Mr Z.R.F. Kirkup** interjected.

**Mr J.R. QUIGLEY:** Why does the member not FOI the bill; that is his trick—just FOI it. Why do I not have an FOI for the bill?

The best legislation in Australia will pass through this Assembly. I cannot say what will happen in the Council because we have seen what has happened to the no body, no parole legislation, which has got bogged down there. Nevertheless, it will presently pass through this Assembly because the McGowan Labor government is committed to it as a priority and we have the numbers here.

**Mr P.J. Rundle** interjected.

**Mr J.R. QUIGLEY:** Be patient. Members opposite sound like my daughter on 22 December saying: how many more sleeps until the man with the white beard comes? I tell her to be patient. Members opposite will get their chance to read the bill presently and we will get our chance as a chamber to vote on it presently. We all will. We will all be able to do this Parliament proud. What I will not take from the opposition is their reading out a list of all important bills that we have introduced to the chamber while the Solicitor-General and the State Solicitor have been working on this matter. Members opposite said that we gave priority to all those bills but when Dr Jacobs brought his bill forward, they said he could have 15 minutes on day one and the next time it came on, he was told he could have a small amount of time for a speaker, then they would have to return to the Genetically Modified Crops Free Areas Repeal Bill 2015. The member for Roe said that this bill was more important than that bill when he took my interjection, but the former government did not; it gave the GMO-free areas bill precedence.

In working conscientiously to bring before this Parliament the best legislation in Australia, should I feel embarrassed that it has taken, as the member said, 32 weeks since the election? The Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 was left on the notice paper for nearly a year, without the then government even seeking advice on it. When it came before the Parliament, members opposite prohibited the suspension of standing orders that would have enabled its debate. Should I feel bad that only 32 weeks has expired? I think the member for Roe referred to Mrs Beale from Esperance in his speech. Is that one of the Beale family?

**Mr P.J. Rundle:** Mrs Beale, yes.

**Mr J.R. QUIGLEY:** Thank you for prompting me. He will know Jillian Beale.

**Mr P.J. Rundle:** That's it; Jillian Beale.

**Mr J.R. QUIGLEY:** She has a daughter.

**Mr P.J. Rundle:** That's correct.

**Mr J.R. QUIGLEY:** That is correct. She emailed recently. I have kept Mrs Kirsty Pratt up-to-date with the progress. Mrs Pratt is a lovely woman and a constituent of mine in Butler. She even brought me a cup of tea

**Extract from *Hansard***

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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while I was wobble boarding during the election, to encourage me. On Thursday, 2 November, six days ago, Mrs Jillian Beale emailed me. I will read it in slowly so that *Hansard* gets it —

Good Morning Attorney General,

Thank you for your response to the emails I have sent, as you would imagine this is a very stressful subject and one that very few people fully understand, or the sadness as parents that we carry.

Mrs Kirsty Pratt who is part of our group of girls here in Esperance is in constant contact with me. I sincerely hope that this bill will be passed and the victims can see some Justice for the ruination of their young lives.

Friday our eldest daughter Jodie hopes to be in Parliament with Kirsty, —

She is in the gallery. The email continues —

and I'm sure Kirsty has told you she will stay there until this Bill finally gets passed.

I will read the next sentence for the benefit of the Leader of the Opposition.

Thank you for your work, could you please let us all know when you are going to stand up in Parliament and make this announcement as we hope to be their beside our daughters on that day.

Mrs Beale, if you read *Hansard* or hear this, we will let you know in advance so that your daughters can be here when this bill is brought before the Parliament.

Do I feel constrained to now apologise to Mrs Beale for what I have done? I do not. A mere 32 weeks have passed and we will have the best legislation in Australia. As a matter of fact, Mrs Jillian Beale does not berate me; she does not ask me to apologise; and she does not criticise me. Quite the contrary. "Thank you for your work, could you please let us know when you are going to stand up and do it." I have kept Mrs Pratt closely informed on a confidential basis. That is a little unfair to her. Because this matter has been before the State Solicitor and different things, I told Mrs Pratt I would take her into my confidence and keep her up to date, because she lives within two kilometres from my electorate office. She is a very valued constituent and is president of the P&C of one of the local primary schools up there and a community leader.

**Mrs L.M. Harvey:** John Butler.

**Mr J.R. QUIGLEY:** Of course. Unfortunately for Mrs Pratt, although she has accepted it, I could not tell her and the world at large—although she is one of the lead victims; she has told me privately in my electorate office of her horrendous experience—and she has agreed not to put about exactly where the drafting of the legislation is up to. But she has accepted it and she was convinced that what I was telling her was the truth. I have given her a recent update today. I know that she will not break my confidence to the member for Roe, but she knows exactly how many days until the white-bearded man comes down the chimney. She knows exactly how long she has to wait and she is not critical of me or the government. This government is working as a team to bring on this legislation. The Minister for Prevention of Family and Domestic Violence is very interested and concerned about it. This will happen. I feel under no pressure whatsoever, nor do I feel in the least embarrassed about the 32 weeks that it has so far taken to get this bill into shape. As the member for Churchlands would know, when we are first elected to office, we are hit with a tsunami of briefing papers. The member nods in assent. It takes us a while just to read those briefing papers, and that was the first month before Parliament sat. Of the 32 weeks, 28 weeks are gone just reading every morning. For the Bell Group litigation, member for Churchlands, the briefing papers were at least two and a half to three inches thick. To read them was an arduous task and that matter remains very important.

Another matter came out of left field. The opposition comes up with some curious statements on this issue at times. I have one page of *Hansard* here to come to. I know that the member for Cannington will speak for himself on this matter shortly, but this question was put to me by the member for Scarborough. They just make this up as they go, just as the member for Cottesloe made up as he went the proposition that the reason the Jacobs bill did not come on was that they were worried about the identification of the true defendant. That was made up. The first time that arose on the radar screen was when I spoke about it in Parliament this year. How do members like this for a question —

I refer to the Attorney General's previous answer about his failure to introduce legislation to remove the statute of limitations for victims of child sex abuse to seek compensation. On the one hand the Attorney General says he does not have the resources of Parliamentary Counsel —

There has been a hold up there, but we are through that now —

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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but on the other he says the legislation was debated last year. Is it not true that the Attorney General has not introduced the legislation not because of Parliamentary Counsel, but because he was rolled by the member for Cannington and other party colleagues?

Where did the member get that one from?

**Mrs L.M. Harvey:** From the mole.

**Mr J.R. QUIGLEY:** It was from the mole. I hope the member does not reward the mole with a scone or a frothy beer or something, because she is being ripped off. The member for Scarborough as a former cabinet minister knows the process. First of all, we have to seek cabinet's approval to draft. The member knows that is a stage of the process. I can assure the member that the approval to draft had 100 per cent unanimous support.

**Mr W.J. Johnston:** I can make it clear that the allegation made by the member for Scarborough was a lie and she should withdraw it.

**Mr J.R. QUIGLEY:** I will give the member a chance in a moment. I want to wrap this up.

**Mr W.J. Johnston:** It is a lie and it needs to be withdrawn.

**Mr J.R. QUIGLEY:** There is absolutely no truth in this. It is just fabricated.

**Mr W.J. Johnston:** The member for Scarborough told a lie in the chamber and here it is.

**The ACTING SPEAKER:** Member, you will have an opportunity to make your contribution in a moment. The Attorney General is making his contribution.

*Withdrawal of Remark*

**Mrs L.M. HARVEY:** Mr Acting Speaker, I seek your guidance on this. We have already had numerous rulings in this place in respect to the member's comment and I request that he withdraw the comment.

**Mr W.J. JOHNSTON:** In question time today, the exact same issue was raised by the member for Churchlands and the Speaker ruled that that remark did not have to be withdrawn. All I am doing is following the instructions, because what was said following the point of order by the member for Churchlands was that to say that a member was lying was ruled as unparliamentary, but to say that something is a lie was ruled to be okay. I do not understand why the Liberal Party is now raising this matter when it went down that path earlier today.

**Mr S.K. L'ESTRANGE:** Further to the request for a withdrawal of remark, it was not me who raised that point of order.

**The ACTING SPEAKER (Mr R.S. Love):** I understand.

Several members interjected.

**The ACTING SPEAKER:** Members! Member, I am going to ask that you withdraw the comment.

**Mr W.J. JOHNSTON:** Which comment?

**The ACTING SPEAKER:** The comment that you made. You know the comment that you have been discussing. I ask you to withdraw it for a couple of reasons. First of all, the Attorney General was making a contribution. You interjected loudly several times and made that remark and I ask that you withdraw it.

**Mr W.J. JOHNSTON:** I am sorry. Mr Acting Speaker, I am always happy to comply with the rulings of the Acting Speaker, but I am not sure which comment you want me to withdraw.

**The ACTING SPEAKER:** I think you know the comment.

**Mr W.J. JOHNSTON:** I am sorry, Mr Acting Speaker; I am very happy to withdraw anything that you direct me to withdraw.

**The ACTING SPEAKER:** You stood and made a point of order on the very matter about lying.

**Mr W.J. JOHNSTON:** I am sorry, but I am not quite sure —

**The ACTING SPEAKER:** Will you withdraw the comment?

**Mr W.J. JOHNSTON:** I will withdraw anything that I am directed to by the Acting Speaker, as I have done on every other occasion. If you direct me, I will withdraw it, but you need to direct me, Mr Acting Speaker. I am simply asking you, Mr Acting Speaker, what you are seeking me to withdraw. I cannot withdraw something that I do not know.

**The ACTING SPEAKER:** You said several times whilst interjecting that a statement was a lie.

**Extract from *Hansard***

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
Mr John Quigley

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**Mr W.J. JOHNSTON:** Mr Acting Speaker, if it is your direction to me, I unreservedly withdraw the allegation that the matter that was raised by the member for Scarborough can be described in that way in this chamber.

*Debate Resumed*

**The ACTING SPEAKER:** Attorney General.

**Mr W.J. Johnston:** Attorney General, can you let us know, is there truth in the ridiculous comments asked of you by the member for Scarborough?

Several members interjected.

**The ACTING SPEAKER:** Minister!

**Mr J.R. QUIGLEY:** I thank the Minister for Mines and Petroleum. In my own way I shall. As I explained just before the minister came into the chamber—I understand why he is upset—from whomever it originated, it is a fabrication. There is not a scintilla of truth in the proposition that I had not introduced the bill to lift the statute of limitations because I had been rolled by the member for Cannington and other party colleagues—quite the contrary; I have been encouraged at every step. At every step of the way I have received the wholehearted encouragement of a unanimously united cabinet, which was not the case in the previous government. We know that there were divisions in the previous government's cabinet. This legislation has the unanimous support of the cabinet. We took it to the caucus, and it not only had unanimous support, but people were clapping. It was unanimous. We are a united party and one of our priorities —

**Mr S.K. L'Estrange:** Bring it in tomorrow.

**Mr J.R. QUIGLEY:** We are going to. As I said, the opposition will get to set the agenda on the day it accedes to the Leader of the House and not the redolent Leader of the Opposition. The opposition does not get to set the agenda. The victims have every confidence that this government is going to introduce this presently. In fact, some of the victims know when, but they respect the fact that I have told them in confidence, because I am putting the victims first. I am not putting first a party that pulled a stunt like it did in 2015, by allowing the matter to come on for 15 minutes and then 12 months later allowing it to come on so one speaker from the opposition could speak, before returning to the genetically modified crops bill.

When I said it was a cynical exercise, this is how cynical the then government was. During the debate on the suspension of standing orders, which, had it been successful, would have seen the bill debated in 2016, Mr Jacobs, the member whose bill it was and who was trying to get it on and whom they praised for trying to bring it on—but they never let him actually bring it on—was pressed to say on 20 October 2016, at page 7490 of *Hansard* —

I woke this morning in some despondency, I must say. I know members might say, “He’s got too close to it. He’s got too emotional about it.” With three of these girls, now women—this does not just apply to girls and women; it applies to boys as well—who it has affected, one of the women did not know how much this had affected her until she found out that her child going to school for the first time would have a male teacher. She was absolutely beside herself that her child, her girl, would have this male teacher.

This is years later —

She moved heaven and earth to make sure that that girl did not join that class with the male teacher. It is important because although there is ability in the state of Western Australia for some redress—criminal injuries compensation or indeed ex-gratia payments under redress programs—there is still no ability in the state of Western Australia for individuals to have, if you like, their day in court.

I want to read the next sentence slowly so that members can take it in —

I will deal with some of the political issues. My colleagues and friends in the Liberal Party —

Remember what we were debating—Labor’s motion to suspend standing orders so that Mr Jacobs’ bill could be substantively debated. Mr Jacobs said —

My colleagues and friends in the Liberal Party may think that I put the Labor Party up to this. I tell members honestly from my heart that I was in a key seats meeting when this debate came on. I had no discussion with the Labor Party that it should bring this on because I can see that my bill, the private member’s bill, is going out the door.

The then member for Eyre was at pains to impress the government of the day that he had no hand in bringing the matter on for debate. He did not want to be thought ill of by his party colleagues, who had come to an agreement the week before to bring this matter on when the victims were in the Speaker’s gallery and allow one opposition speaker to speak—that was the cynical deal—so that the people in the gallery would think that Jacobs has the matter going forward. When they defeated our motion to suspend standing orders, including the members for

Scarborough, Churchlands, Cottesloe and South Perth—they all voted to defeat the motion that would have allowed debate on the bill—the Jacobs bill was killed then and there. They never expected it to come on. We brought on a motion for the suspension of standing orders and Mr Jacobs was saying, “Government, please believe me. I didn’t put Labor up to bring this bill on. I had no hand in bringing this bill on.” Why was that? It was because he could see that his private member’s bill was “going out the door”. He knew that the government of the day was never going to allow his bill to be debated, let alone be passed. It was a cynical stunt to give the pretence for the victims who were sitting in the back of the chamber, who did not understand the procedures of the Parliament, that this matter was going to come on for debate and it was going forward. The government knew that. It is just like when you are in the swimming pool and you see that line and think, “I’ve got only three strokes to go and I hit the wall.” They were saying, “We’ve only got a week to go and the Parliament prorogues and we are out of here; we don’t ever have to look at this again.” That is why Mr Jacobs said that he knew his bill was going to be thrown out the door. I put in the word “thrown”; he said it is “going out the door”—never on for debate, never on for vote.

The people who stopped this debate, who voted against it being debated, are the very people who stood up today. The people who voted on 20 October included 23 of us—Labor members, plus the then member for Eyre who crossed the floor. There were 23 ayes who voted to suspend the standing orders to bring on the bill for debate—including Mr Jacobs, Mr Abetz and Mr Britza. A couple of Labor members must have been out of the chamber, but there we are. There were 29 noes. The person who voted no and stopped the bill coming on for debate is the person who moved the motion today. What temerity. He has more front than Myer, as they say. That very person, the member for Riverton, has moved a motion that criticises us for taking 32 weeks, with a couple more to go before we bring in the bill—the very person who has brought on the debate and calls upon me as the Attorney General to offer my apology to the victims. Mrs Beale has sent me a personal email, thanking me for my work. Did the Leader of the Opposition get one?

**Dr M.D. Nahan:** Where is your work?

**Mr J.R. QUIGLEY:** Where is the work? You sound like my eight-year-old Lilly, when we are going down to Mandurah to my mother-in-law’s, and she says, “Are we there yet? Are we there yet? Are we there yet?” I have to say to her, “Child, patience; it will be delivered. We’ll get to Mandurah. We’ll get to granny’s house. Don’t worry.” I say to the member for Riverton: you will get your chance to vote yes or no on this bill. What we want to know is: will he support it as an urgent bill?

**Mr S.K. L’Estrange:** Of course we will.

**Mr J.R. QUIGLEY:** Of course we will, says the member for Churchlands. We want to know whether the opposition is going to kick it into the long grass in the Legislative Council.

Several members interjected.

**Mr J.R. QUIGLEY:** Is the opposition going to kick the bill into the long grass, send it off to a committee for six or nine months, like it did with the no body, no parole legislation? I saw it. I saw them when they went up to the parents of the murdered victims in the back of the chamber and offered their condolences when the no body, no parole bill went through, not giving them the heads up that we were not there yet. What is going to happen to Mr Don Spiers, who was there? He thought it was all over then and that the no body, no parole law would get through. The bill has got to the upper house and the opposition has held it up in a committee for all this time. We want to know whether that is the opposition’s intention with this bill too. Is it, member?

**Dr M.D. Nahan:** If you do a good job, we will pass it quickly. If you get up with your buffoonery, silliness and stunts, do not expect it. People deserve more than you.

**Mr J.R. QUIGLEY:** Member —

**Dr M.D. Nahan:** You are a disgrace as an Attorney General—buffoon!

**Mr J.R. QUIGLEY:** Member —

Several members interjected.

**The ACTING SPEAKER (Mr R.S. Love):** Members, silence! Attorney General, sit down. Okay. We are just about finished, so let us all just settle down and get this finished now.

**Mr J.R. QUIGLEY:** I do not like to use the word “disgrace”, but I will tell members what is regrettable in the extreme: the previous Attorney General, the colleague of the Leader of the Opposition, announcing the Liberal Party policy by saying —

... the reluctance to waive limitations provisions arose from a number of policy factors —

That is Liberal Party factors —

**Extract from *Hansard***

[ASSEMBLY — Wednesday, 8 November 2017]

p5636b-5659a

Dr Mike Nahan; Mrs Liza Harvey; Mr John McGrath; Mr Peter Rundle; Mr Sean L'Estrange; Mr Colin Barnett;  
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recognising that lengthy time lapses between crimes and compensation increased the likelihood of miscarriages of justice and “carries with it significant direct and indirect costs”.

That is disgraceful. I will go that far. It is saying that there is a likelihood of miscarriages of justice—the only miscarriage being that some people, some children, might get believed and the state might have to pay some compensation. That was the Liberal Party policy in 2013. Labor is committed to assisting these victims. Labor is committed to bringing this bill on.

**Dr M.D. Nahan:** Do not talk—do.

**Mr J.R. QUIGLEY:** We have been doing member, and we will see the best bill in Australia.

Debate adjourned, pursuant to standing orders.

*House adjourned at 7.00 pm*

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