

**CIVIL LIABILITY AMENDMENT
(PROVISIONAL DAMAGES FOR DUST DISEASES) BILL 2024**

Second Reading

Resumed from 18 April.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [10.12 am]: I rise to make a contribution to this very important piece of legislation. I understand that the opposition will also be contributing to debate and supporting the legislation. I rise knowing that I carry the burden of speaking on behalf of most of the government backbench, many of whom would have loved the opportunity to contribute to this debate. This is extremely important legislation that I want to see pass Parliament as quickly as possible, and I will come to the reasons for that shortly. Members would be aware that perhaps the reason I have been handed this great privilege of being the speaker on behalf of the rest of government contributors is that prior to my entry into this place, I acted as a solicitor for victims of asbestos-related diseases. This is incredibly important legislation in their ongoing campaign for justice. The paradox is that I want to see the legislation passed as quickly as possible, but I have a significant contribution to make.

I need to commend and congratulate a number of people for the advocacy that they have undertaken and the support they have provided to victims of asbestos-related diseases. I will talk about doctors and scientists and the medical care and research that goes into treating people with asbestos-related diseases. I will talk about the advocates and unionists who take up these issues on behalf of injured workers and people who have been negligently exposed to asbestos in their campaigns to seek justice for people who they represent. I want to talk about the lawyers and politicians who have been assiduous in their commitment to fighting for a fair and equitable outcome.

I am very pleased to note that this legislation will enjoy the support of the whole house in the Legislative Assembly, which is a reflection of just how important justice is for victims of asbestos-related diseases. The two people who I most need to thank in bringing this legislation forward are the honourable Attorney General, who has worked assiduously as an advocate on behalf of asbestos victims and has been a keen and enthusiastic legislator and the whole time he has been the Attorney General over both terms of the Labor government, and Hon Kate Doust in the Legislative Council, who has forever been a terrific friend of the Asbestos Diseases Society of Australia and to victims of asbestos-related diseases. In fact, it was Hon Kate Doust, back in 2013, who first introduced a similar piece of legislation that provided for provisional damages and gratuitous services. It is important that we cover off some of the history.

After the 2013 state election, Hon Kate Doust was returned as a member of the Legislative Council, and with the assistance of my friend John Gordon, an eminent barrister who practises extensively in this field, Hon Kate Doust was able to prepare a private member's bill. Unfortunately, as a member of the opposition in the Legislative Council, Hon Kate Doust did not have a great deal of time to progress this bill, but she introduced it in 2013 and advocated for legislation similar to the bill before us. The then Attorney General, Hon Michael Mischin, referred the legislation to the Law Reform Commission of Western Australia. Dr David Cox, who is the commissioner of the Law Reform Commission and a barrister at the well-regarded Francis Burt Chambers, together with Justice Fiona Seaward, who was also another commissioner, prepared the Law Reform Commission's *Provisional damages and damages for gratuitous services: Final report: Project 106*. The time line for that was that the referral was made to the Law Reform Commission in 2014, the Law Reform Commission issued the *Provisional damages and damages for gratuitous services: Project 106 discussion paper* in 2015 and the final report was published in June 2016. Unfortunately, notwithstanding the final report of the Law Reform Commission that recommended that legislation be introduced to provide for provisional damages and damages for gratuitous services for not just asbestos victims, but also personal injuries victims generally, the then Liberal government and the then Attorney General, Hon Michael Mischin, did not support the passage of the legislation. I have no idea what their reasons were, but I am pleased that the Liberal Party is supporting this legislation now. Whatever the reasons were, Liberal Party pre-selectors dropped Hon Michael Mischin down to an unwinnable spot on the ticket, and he did not return to this place. Going into the 2017 election, the reform of the Civil Liability Act 2002 to provide for fair and just compensation for victims of asbestos-related diseases became an election commitment of the Labor Party. Many people in the Labor Party have pursued this outcome since Hon Kate Doust introduced to legislation in 2013 and in the time since.

This is complicated and difficult legislation, and it is a testament to this Attorney General that this legislation is now before Parliament in a form that will enable compensation for victims of asbestos-related diseases to catch up with equivalents in other states and territories in the commonwealth. It is a testament to not only the work that he has done to bring this legislation forward in concert with Hon Kate Doust, but also to the advice that he received. Part of the difficulty in bringing this legislation forward, as the Attorney General identified in his second reading speech, was the need to align the operation of the Workers Compensation and Injury Management Act with the amendments to the Civil Liability Act. That requirement meant that the introduction of this legislation had to wait for the passage of the Workers Compensation and Injury Management Act reforms, which the member for Cannington, the then Minister for Industrial Relations, was instrumental in passing. The coordinated effort of both

Extract from Hansard

[ASSEMBLY — Thursday, 13 June 2024]

p2977b-2984a

Mr Simon Millman; Mr Shane Love; Dr David Honey; Mr John Quigley

Hon Bill Johnston and the Attorney General to get both the Workers Compensation and Injury Management Act passed and this bill then drafted and introduced into Parliament is a testament to something I have mentioned before, and that is the unity of purpose of the McGowan and now Cook Labor government.

I will come back to some of the efforts made by advocates, but before I do that, I will talk about the three waves of asbestos victims that the Attorney General mentioned in his second reading speech. I want to do that by referencing three of the most recent Western Australian cases related to asbestos-related diseases. The Attorney General already explained this in his second reading speech, but I want to explain the import of the award of provisional damages for sufferers of asbestos-related diseases. As members would know, a long latency period can follow exposure to asbestos before the onset of the diagnosis. The initial diagnosis will generally fall into one of two categories. It will fall into a fibrosis category, such as asbestosis, or it will fall into a carcinogenic category, such as mesothelioma or lung cancer. If it is the former, there is a low chance of that leading to end of life; if it is the latter, there is a high chance of that leading to end of life. The diagnosis of the former does not preclude a subsequent diagnosis of the latter. Someone could be diagnosed with asbestosis, have a legitimate basis for bringing a claim for compensation and then subsequently develop mesothelioma or lung cancer. If they have settled their claim for their asbestosis condition, they will be precluded by the current regime, known as the once and for all regime, from bringing a subsequent claim. That is by way of background.

The most recent Western Australian authority pertaining to an award of damages for asbestosis was the case of Antonio Lo Presti against the Ford Motor Company. I can give members the citation for that case. I have to scroll back up to the top because I was reading the case while listening to members' grievances. It is *Lo Presti v Ford Motor Company of Australia* [2008] WASC 12. The decision was delivered by Justice Beech on 19 February 2008. As result of working for the Ford Motor Company on asbestos brake linings from the 1970s to the 1990s, Mr Lo Presti developed asbestosis. Rather than settle his claim, with the assistance of Slater and Gordon lawyers and my great friend Michael Magazanik, Mr Lo Presti proceeded with his claim in the Supreme Court of Western Australia. He was successful and awarded a significant sum of damages in the order of \$800 000 as a result of his asbestosis condition. Had he settled his claim against Ford Motor Company and not proceeded to trial, he would have been precluded should he have subsequently developed malignant mesothelioma or lung cancer. That he proceeded to trial demonstrates the financial value of these asbestosis claims.

By way of comparison are two of the most recent cases concerning malignant mesothelioma, which will always carry a fatal outcome. I frequently refer to the case of Simon Lowes, a gentleman who was exposed while playing at Castledare Miniature Railway. He was awarded in excess of \$2 million by the Supreme Court of Western Australia as a 42-year-old and subsequently passed away as a 47-year-old. Most recently, was the case of *Ms Parkin v Amaca*. The reason I raise both Lowes and Parkin is that when the Attorney General introduced the legislation, he talked about the third wave of asbestos exposure in his second reading speech. Mr Lo Presti was part of the second wave. The first wave was from mining and manufacturing workers at Wittenoom and James Hardie who were exposed to asbestos. The second wave was predominantly tradesmen such as carpenters, roofers and construction workers who were exposed using the products manufactured by James Hardie. The third wave is people like Simon Lowes, who had no history of working with asbestos products, but was exposed when he played at Castledare, and Ms Christine Parkin who was exposed when she and her father built a garden shed on their property. Christine Parkin successfully sued James Hardie again, and she was awarded damages in the sum of over \$1 million. She was represented by my other great mate, Tim Hammond, SC, in a successful decision handed down by His Honour Justice Rene Le Miere. The citation for that is [2020] WASC 306.

I will also mention in passing a couple of my former clients, Peter De Ruyter and Barry Knowles. For those who are interested, the late great Barry Knowles wrote a fantastic book about his experiences as a mesothelioma sufferer, *Reflections Through Reality: Mesothelioma — My Journey*. The reason I make these points is that although we have waited many years for the introduction of this legislation and many people have missed out on the ability to claim damages on the basis of having to make an invidious choice between settling their claim for an asbestos-related disease of the nature of fibrosis, asbestosis, or mesothelioma, the work, the advocacy, the commitment, suffering and experience these people have gone through has strengthened the resolve of their advocates, lawyers, unions and politicians to make sure that we arrive at this position. It is only by virtue of having a Labor government and an activist Attorney General that we are now in the position to introduce these provisions for provisional damages. The reason I do not want to speak too long on the bill is that it will mean that later this year, people who are currently facing that tragic choice will be free to pursue their claim knowing that the effect of this legislation will be that they will not be prevented from bringing a subsequent claim should they develop a devastating malignant diagnosis. This is imperative legislation and it is important that it be passed by the Legislative Assembly as quickly as possible.

The next thing I will talk about is what some of that advocacy looked like. I was on the phone this morning to my great friend Laine McDonald, who is an asbestos lawyer at Slater and Gordon. She and I worked for many years in the asbestos practice, and she has continued to advocate on behalf of clients. I rang her and asked what she would

say if she were in Parliament. She said that the great thing about this legislation is that it will remove that heartbreaking choice. Perhaps the best way to describe Laine’s position, or as I should call her, the then Hon Laine McDonald, member for North Metropolitan Region, as a member of the Legislative Council —

Mr T. Healy interjected.

Mr S.A. MILLMAN: All too short, member for Southern River. She should come back.

Ms C.M. Rowe interjected.

Mr S.A. MILLMAN: She made an incredible contribution, member for Belmont.

I refer to *Hansard* of 17 November 2016 during the debate on Hon Kate Doust’s bill, when Hon Laine McDonald spoke in support of it. She was referring, of course, to the Law Reform Commission of Western Australia’s report that I mentioned earlier. She said —

The final report recommends that the once-and-for-all rule be modified in Western Australia through the introduction of a provisional damages regime and that damages for gratuitous services that a plaintiff can no longer provide to others be introduced in Western Australia in the manner outlined in the report.

[Member’s time extended.]

Mr S.A. MILLMAN: As I keep saying, I am very keen for the legislation to be passed. I feel as though I need to make a contribution on behalf of everyone so I will cover off everything. She continued —

It should also be noted that this report recommends that these types of damages should be permitted for all classes of personal injury.

She goes on to say that, as an asbestos lawyer, she wants to focus only on the asbestos aspect of the legislation. She then said —

The discussion paper released by the Law Reform Commission of Western Australia cites potential disadvantages regarding provisional damages, including court congestion due to an increase in claims and a potential increase in the cost of insurance premiums.

She then goes on to say —

These New South Wales statistics show that provisional damages can be used as a successful method to adequately and fairly compensate those suffering from a non-malignant disease and at the same time give them the peace of mind that an option of further compensation is available in the unfortunate event that the worst eventuates and they go on to develop a malignant disease. Statistics show that the number of plaintiffs who go on to pursue a claim for malignancy are modest, which should put to rest any arguments about the financial impost of these reforms, especially if limited to asbestos-related disease victims. The Law Reform Commission report also points out that provisional damages act to prevent both undercompensation and overcompensation, and this approach will deliver “the maximum benefit to the WA community as a whole”.

The balance of Hon Laine McDonald’s contribution was on gratuitous services, and I will come back to gratuitous services before I conclude my contribution. To Hon Laine McDonald, I say congratulations for the contribution she made as a member of Parliament and for her ongoing hard work as a lawyer acting on behalf of victims of asbestos-related diseases. I know that she has been very keen to see this legislation introduced. It is because of the work of people like her, her colleagues Tricia Wong and the late, great Luisa Dropulich, and the other lawyers involved in seeking justice for victims of asbestos-related diseases that we are at this point.

I think a further element of this legislation is incredibly important. Again, this is a testament to the activist nature of this Attorney General. In November 2018, about 18 months after I had been elected for the first time as the member for Mount Lawley, I raised a grievance with the then Minister for Industrial Relations, Hon Bill Johnston, whom I mentioned before. The grievance was as a result of the increasing incidence of silicosis among construction workers in Queensland. We saw a massive spike in Queensland of construction workers working with engineered stone and developing silicosis, which some described as the asbestosis of the 2020s. Subsequent to that grievance being raised and assurances being provided by the Minister for Industrial Relations, awareness of the dangers of silica dust, particularly from engineered stone, gained a great deal of traction within the community. I commend Zach Smith, the national secretary of the Construction, Forestry, Mining and Energy Union, and Mick Buchan, the WA secretary of the CFMEU, for their work on the Killer Stone campaign. They raised awareness of the debilitating effects that silica-based respiratory diseases were having on young construction workers. Diseases that we had not seen since the 1950s and 1960s had become prevalent in Western Australia and Australia nationally. They lobbied the federal government and other state governments for a ban on engineered stone.

The current Minister for Industrial Relations has been in the chamber all morning and has just ducked out. I was keen to compliment her for her December 2023 announcement, together with the rest of the jurisdictions, the commonwealth and state jurisdictions, that there will be a nationwide ban on engineered stone from 1 July 2024.

This legislation picks up silica and silicosis and starts to treat this respiratory disease in a way that is equivalent to how asbestos and asbestos-related diseases are treated. That reflects and recognises just how dangerous silica is and is a testament to the advocacy that was undertaken, particularly by the CFMEU and by the union movement generally.

I will not take too much longer, but I want to cover off the contributions that people have made. I concentrate now on the Asbestos Diseases Society of Australia. I know that the current Minister for Mines and Petroleum and member for Balcatta, Hon David Michael, has the Asbestos Diseases Society in his electorate with its offices on Main Street. The work that Robert and Rose Marie Vojakovic have done, with numerous amendments to the Civil Liability Act, has always made sure that we are progressing and improving the provision of compensation to victims of asbestos-related diseases. They have worked hand in hand with brilliant scientists and doctors such as Dr Melvin Chin, the late, great Professor Barry Musk and Professor Anna Nowak.

The ACTING SPEAKER (Ms M.M. Quirk): I think it was Bill Musk.

Mr S.A. MILLMAN: Sorry; it was Professor Bill Musk. Anna Nowak is the deputy vice-chancellor at the University of Western Australia. As everyone knows from previous contributions I have made, there is a much higher rate of these diseases in Western Australia than in the rest of the nation. We have the most contemporary academic research on the health and medical effects, and we have great treatment for people who are suffering from these diseases.

I thank the advocates and the unionists: the Asbestos Diseases Society, the CFMEU and all the union movements, including UnionsWA and the Australian Council of Trade Unions. I also thank the people who are often recognised at the ecumenical service that is held by the Asbestos Diseases Society, the lawyers, many of whom I have already mentioned, and politicians like Hon Laine McDonald and Hon Kate Doust whose assiduous focus and tireless work on this issue have helped us to arrive at this position. We are now able to see this legislation introduced to provide compensation for victims of the fibrosis and asbestosis conditions in a way that does not prevent them from subsequently pursuing lung cancer or mesothelioma claims if they develop those malignancies. The combination of doctors, scientists, advocates, unionists, lawyers and politicians working in concert has allowed us to reach this position.

The final comment I make is this: when I was first elected to this place in 2017, in my inaugural speech I spoke about industrial manslaughter laws and the importance to me of work health and safety and just compensation for victims of asbestos diseases. I think about the fact that I will have about 30 days in this chamber before my retirement. I am not seeking re-election at the next election. I think about the fact that I feel incredibly blessed and gratified that one matter that I raised in my inaugural speech will be resolved by this Parliament before I ultimately depart. I think about the fact that the Attorney General has been in Parliament for 25 years. He was elected in 2001 and will retire at the 2025 election. I think about all the work that he has done and the number of times I have stood up and made contributions about the legislation that he has introduced. I am in awe of his 25 years; I cannot imagine doing something that goes on for 25 years. I am incredibly grateful that, after my short time as a member of this place, I am able to speak in support of this legislation.

I also note that, despite the tremendous effort that both he and his advisers have put into this legislation, it deals with half of what we were hoping to deal with. It deals with the provisional damages. There remains the unresolved question of damages for gratuitous services that was recommended by the Law Reform Commission. That makes me think of Hon Kate Doust, who I know will seek re-election in 2025 and will be returned as a member of the Legislative Council. I also think of the members for Belmont, Southern River, Churchlands, Nedlands and Kalgoorlie, all those advocates who stand shoulder to shoulder with victims of asbestos-related diseases, and the doctors, scientists, advocates, unionists and lawyers who stand with them. To all members who will be back after the 2025 election: keep your shoulders to the wheel. I very much look forward to seeing the next Attorney General introduce the next piece of legislation that deals with gratuitous services so that the justice, equity and fairness that the people of Western Australia deserve when it comes to compensation for asbestos-related diseases can be delivered.

I commend the advisers once again. I have probably two more pieces of legislation from the Attorney General to speak on before my time is done. I am incredibly grateful that I have the opportunity to speak on this one. I commend all the advocates, particularly Hon Kate Doust. I commend you, Attorney General. Once again Attorney, it is a great privilege to speak on a terrific piece of your legislation. I commend all of my friends, who I am sure are watching online. I commend the bill to the house.

MR R.S. LOVE (Moore — Leader of the Opposition) [10.40 am]: I rise to speak on the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024 and advise that I am the lead speaker for the opposition, which will support the legislation.

This legislation has been quite some time in the making. In 2014, the Law Reform Commission of Western Australia was requested by the former Liberal–National government to examine the law and make recommendations in two areas: one, whether the once-and-for-all rule under the common law should be modified through the introduction of provisional damages; and, two, whether a specific head of damages for the value of gratuitous services, domestic or otherwise, provided by the plaintiff to others should be introduced. In November 2015, the commission released a discussion paper that set out several options in relation to these areas. In that paper the commission proposed that the once-and-for-all rule be modified in Western Australia through the introduction of a provisional damages regime in specific circumstances. The commission sought submissions on the proposed law reforms outlined in the discussion paper and received 26 submissions from stakeholders, including the Asbestos Diseases Society of Australia, the Law Society of Western Australia and various members of Parliament. Following an analysis of the submissions, the commission recommended that the once-and-for-all rule be modified in Western Australia.

Dust diseases related to asbestos have been understood since the mid-1960s; however, asbestos was not banned in Australia until as late as 2003, again, I think, by a Liberal–National government. Although asbestos-related diseases have traditionally been linked to workers who have had direct contact with the material, either through mining or working with asbestos in the workplace, with manufacturing processes referred to as the first wave of exposure, and construction workers, carpenters and other tradespersons exposed to asbestos fibres from building materials, referred to as the second wave, a third wave of exposure is currently occurring for do-it-yourself home renovators and handymen who have been exposed to existing asbestos products in the home. The long incubation process of mesothelioma and other asbestos-related diseases caused by exposure prior to bans on asbestos use means that these diseases are still increasing in Australia. We know that from the *Asbestos management review report—June 2012*.

More recently, silicosis has emerged, which is an occupational lung disease caused by breathing in small particles of silica dust prevalent in things like engineered stone benches that have become very common in houses in recent years. Silica dust is generated when silica-containing materials are cut, crushed, drilled, ground, polished, sanded, sawed or disturbed with force.

The ACTING SPEAKER: Attorney General, just keep it down, it is disturbing the person on their feet. Thank you.

Mr R.S. LOVE: I am sure that the Attorney General has a unique ability to listen and talk at the same time!

In 2023, WorkSafe Western Australia and WorkCover WA reported that the state had recorded 48 cases of silicosis since 2018, and 43 cases involved workers employed in the engineered stone industry. Persons at risk of contracting silica-related diseases include stonemasons, builders' labourers and carpenters who are engaged to fit premade kitchen benchtops containing engineered stone into private residences on site. I add that the workforce involved in many of these cases would have most likely been younger tradesmen, often young men employed in a factory unit or some such, and at the very beginning of the use of this material, we quite often heard stories of very few safety precautions being taken, so given the youth of many of the people involved, the results will play out for some time. On 13 December 2023, work health and safety ministers nationally unanimously agreed to ban the use, supply and manufacture of all engineered stone, which is mainly used in those kitchen and bathroom benchtops in houses.

Dust diseases are known to have a slow progression in the body. As such, the once-and-for-all rule, which means that damages are assessed at a single stage and cannot be subsequently enlarged, are calculated as a lump sum. If a claim for damages is caused by an act or omission, all the damages for past and future injury caused, or potentially caused, by the act or omission must be determined in the one award of damages. It is timely, then, to consider including provisional damages for dust disease in civil liability. Although we support the bill, its intent and the need to protect people who through no fault of their own have been exposed to potential disease, I would like to get more of an understanding, perhaps during consideration in detail, about whether there was consideration of the likely costs and implications to industry for workers compensation and to the state government in its own liabilities.

I asked those questions in estimates recently when the Treasurer had the Insurance Commission of Western Australia here and we discussed the ramifications of change with the Insurance Commission. I will run through a bit of that transcript for the benefit of *Hansard* so people can get an understanding of what I am talking about. I said —

I do not think it is in the budget, but it is on that line of increased risk to the state. The other change in workers compensation is occurring with the dust legislation and leaving payments to be provisional rather than final in certain circumstances. What effect on premiums is that thought to have?

The Treasurer referred to Mr Whithear, who said —

We have expressed concern about a potential change from full and final settlement to provisional settlement. We think it is a fundamental basis of common law that if one reaches a settlement with an insurer, it is

final. Our actuaries would calculate a settlement and their outstanding liabilities when one does not know how many people will come back for a second bite. It is quite worrying. We have read the parliamentary report. We are engaging with Justice at the moment and we see material costs coming to the government for some of these things. We think that the public perception is that when one changes some of these laws, it might be a concern for just some non-government organisations or faith-based organisations. Invariably, it is a far larger concern for the government, so we will be trying to do some work to, first, advise Justice and ministers about the risks of some of those mooted changes and, second, where we can, try to calculate an estimate of additional cost to government. Some of that is quite difficult to do because one has to predict the behaviour of people, and that is not always straightforward.

I went on to ask —

The government will be only one employer caught up in this. Presumably, a whole bunch of industry figures will need to do similar work. Is there a pooling of that effort or will the Treasurer consider, completely in isolation, how the government will see the premiums affected going forward because of that particular change?

The Treasurer answered —

I would have to get further advice on that, but we can get some advice from of course ICWA, and I suspect industry would give us some advice as well. I would probably need to get further advice from the Minister for Industrial Relations on that.

I wonder whether the minister has had any discussions about that. ICWA said it was going to engage with Justice and the Treasurer said she would engage with the Minister for Industrial Relations. I wonder whether there has been any progress on that. It has been a month or so now since that discussion.

But I go back to the bill. It is important for the community to understand the implications of the change in this bill, which essentially means that people can come back if their condition progresses through their life story. Is the proposition firm that a claimant can come back only once? We might talk about that in consideration in detail. I understand that the Attorney General is aware we will do that after question time if that is possible, as he will have advisers with him then. I understand that this bill seeks to strike a balance between the unique circumstances of asbestos and silica dust disease and other industrial ailments and injuries. It will improve on the present situation for people affected by those diseases. For that reason, the opposition will support the legislation, but we will have a discussion about some of the implications of those changes on the way through.

DR D.J. HONEY (Cottesloe) [10.50 am]: As indicated by the Leader of the Opposition, the opposition is supporting the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. I will make a few brief comments about it.

First, I thought the member for Mount Lawley made an excellent contribution in recognising various groups in response to the bill. I thank the Attorney General for bringing the bill before the house. It continues the work that was done in recognising silica as well as asbestos in the Workers' Compensation and Injury Management Act 1981. In this place, we sometimes see politics as sort of tribal; the Labor side is for unions and we are against unions. As I have made clear in this place on many occasions, I recognise the important role that unions have played in workplaces, and no more so than in the issue of worker protection, particularly in relation to the topic that we are talking about right now—the harm caused by asbestos, and, more recently, silica. I recognise that it is an important role. In my industrial experience, I had an extremely productive relationship with the industrial unions I dealt with in the mining industry. There was never an occasion that I had a safety issue brought to me that was not a safety issue or an issue that should not be resolved, so that was a very positive experience. The interaction of the unions with the Asbestos Diseases Society of Australia is very positive. My former employer Alcoa had a very positive relationship with the Asbestos Diseases Society as well. I think any responsible employer did that.

The industry that I worked in before I entered Parliament operated in very high-temperature, high-pressure conditions. Alcoa's refineries were built before the issues of, and concerns about, asbestos had been raised. Asbestos was very widely used in a range of applications for thermal insulation and for what are called "gaskets" in pipes in an aggressive chemical environment. It was even used as packing material in pumps and the like. There was ample potential for workers to be exposed to asbestos, even in unusual places such as lino on flooring and in sound-deadening applications. Excellent work was done in identifying those potential sources, and, where possible, removing those sources of asbestos contamination, and otherwise stabilising and noting where that asbestos is so that workers will not be exposed to it. That was a very positive thing. I recognise the important role that the unions have played in mitigating hazards to workers in the areas of asbestos and more recently silica. I think, in the waves coming through, we will see this occur for a long, long time.

Asbestos has been and probably still is ubiquitous in the environment. In fact, anyone in this room who is over about 40 years of age almost certainly has asbestos fibres in their lungs, because the exposure to asbestos was so

widespread. Asbestos diseases are probabilistic diseases and many people have asbestos fibres. Some people who have had limited exposure, and some people with one exposure, have gone on to die from an asbestos-related disease. Some people have had extensive exposure, but go on to live a long life and their demise is caused by some other factor. Nevertheless, it potentially affects a very large percentage of the population.

The changes outlined in this bill are important. I will go through the clauses. It is important that the commencement date fits in with the workers compensation legislation, and recognises the complexity of the diseases caused in particular by asbestos and silica. The Leader of the Opposition outlined that in all matters of legislation, we have to think about the balance between the impact on the broader community and the impact on the cost to the community. What is the problem it is trying to solve and is there a correct balance? In this case, I think the bill strikes the correct balance in limiting those once-and-for-all provisions to asbestos and silica. The particular nature of the diseases caused by asbestos and silica is a strong justification for that approach.

These diseases have a massive life-altering effect on people. I note the bill will allow the potential for family members to gain compensation from the estate of someone who is affected by those diseases. When the family breadwinner loses their life, it does not affect just that person, but the whole family, and potentially has a severe financial impact. It is proper that they should be able to get compensation, and a key part of that is removing the limitation period. I note the bill, in terms of workers compensation, sensibly has an anti-double dipping clause in it. I think it is very complex and I appreciate that it must have been a difficult matter to go through to do this, but I think the Attorney General has done a very good job on a very important matter.

I take a couple of minutes to talk about the general issue of dust. The fact is that in any workplace, workers will have been exposed to that silica dust. Employers who have allowed workers to be exposed to silica dust have been negligent. The hazards of silica dust have been known for generations. This is not a new hazard and I am greatly concerned. This is a matter for any of us, just as people in the community, when we see it. All dust causes harm, whether it is grain dust, dust off roads, dust blowing off a paddock or dust blowing off a building site. All dust causes health harm and it should be minimised. For example, there is certainly an association between medium-density fibreboard in manufactured timber products and dust in those materials, and throat and other cancers. These materials bonded together with polymer material are hazardous. We all know of health hazards associated with flour dust—something that we eat—but, nevertheless, the dust causes significant lung damage if workers ingest that. In any space that dust is seen, it is causing harm to workers if they are not properly protected. The first thing in the hierarchy of control is to eliminate the need for the task, but if the dust cannot be eliminated, at least control it. The final hierarchy of control is personal protective equipment. It occurs in far too many occupations. If we walked out of this place today, we would see workers not wearing dust protective gear cutting into road surfaces that have crystalline silica in the aggregate material, and no water being applied to the cutting surface to eliminate or mitigate the generation of dust. This is an evolving area. I appreciate that the government has to focus on key areas.

As a whole society, we need a much stronger focus on workers in every industry, be it farmers, factory workers or people working on building sites. Exposure to all dust is harmful, some more harmful than others, and everything should be done to prevent it from being inhaled. If members see work going on with dust generated and workers not properly protected, I encourage them to raise that issue and, if they can, stop the work and ensure that proper controls are put in place. They should make sure that councils are doing this. There is generally far too relaxed an attitude to dust in workplaces. If workplaces had taken their existing responsibilities seriously, we would not have seen this dreadful plethora of workers and others affected by silica dust from engineered stone.

I wanted to make one other comment, just on a matter of history. I hear comments by members in this place criticising Hon Michael Mischin for not progressing certain matters in this Parliament. For the *Hansard* record, I think Hon Michael Mischin was very keen to progress a range of legislation that the Attorney General has subsequently progressed. For the public record, I do not believe it was for the want of him progressing the legislation; it may have been other cabinet colleagues. I will say that much when referring to some of that legislation.

Good on the Attorney General for bringing the bill to the house. It is a very worthy piece of legislation. I commend the bill to the house.

MR J.R. QUIGLEY (Butler — Attorney General) [11.01 am] — in reply: This is an occasion when, as happens from time to time, the Parliament is unified in a law reform measure. This law reform and some of the law reform I bring forward finds its genesis in ideology of, for example, the abolition of the Gender Reassignment Board of Western Australia and the commitment to equal opportunities reform, which the Premier announced will proceed given that we have all but finished that bill. Other measures of reform are not ideologically driven but are justice driven. On those occasions, the Parliament comes together. When I say “the Parliament”, the chamber comes together as one to see the legislation passed expeditiously. This is one of those occasions when everyone can recognise the absolute injustice afforded a person who has been compensated by insurers for early onset lung disease such as asbestosis only to develop a terminal disease such as mesothelioma or lung cancer. As members have pointed out, everyone can recognise the absolute injustice of that person being locked out from compensation

for that terminal condition because they were compensated for a less serious consequence—the inhalation of dust—20 years ago.

It is a real privilege to stand here as the Western Australian Attorney General having introduced the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024, which is embraced by all members of the chamber and doubtless will be—I expect it will be—receiving cross-party support in the other place, the leaders of the opposition parties having given it such strong support in this chamber.

Another example of this unity across the aisle is the reform to the Limitation Act 2005, which lifted the barrier preventing adults from seeking compensation for the dreadful sexual assaults and abuse they were subjected to as children years before. The statute of limitations debarred them from ever seeking compensation. It was quite something else to introduce that legislation and see it embraced by all members who spoke to it; not one member spoke against it.

Similarly on this occasion, no member has risen to speak against this legislation, for to do so would be to stand up and speak against justice. I know that all members of this place are committed to justice for the individuals who are either victims of abuse or, in this case, of a disease often contracted during their employment, as the Leader of the Opposition and the member for Cottesloe pointed out. The member for Mount Lawley certainly pointed out in detail the different waves of this disease: firstly, those involved in the extraction and processing of ore at Wittenoom; secondly, those in occupations using asbestos and other products that cause lung disease; and, thirdly, the wave of people who are either involved in home renovation or who have had casual contact with the products.

The member for Cottesloe was right when he said that all dust introduced into the body is dangerous and the dust from some product is lethal. The Leader of the Opposition was right in saying that an insurer expresses concern about the level of payments. I say to the Leader of the Opposition that as an incoming Attorney General, I was cautioned, warned and, even amongst some quarters, attempted to be deterred from lifting the bar for historical child sexual abuse actions. People said, “Attorney, we don’t know how many people are out there. The level of compensation could be large. It could be an unbearable impost upon the state to revisit these cases 20 to 30 years after the abuse. Don’t do it because there is an unknown number involved.” But we did it with the support of every member in this chamber. It was a costly burden. It remains a costly burden, but it is not one that a just society would squib on meeting. In meeting the damages claims, we have not denied other sectors of the community proper support. As a state, we have stepped up and seen those victims properly compensated and, as a chamber, we gathered in unity to support redress legislation to give victims another pathway, a non-litigious pathway. Yes, Leader of the Opposition, I expect questions around costings and that. The Leader of the Opposition is right that at the end we do not know how many people this might ultimately involve. We do not. It has to be a commitment either to do it or not to do it. We are committed. I was very proud of former Premier Mark McGowan, AC—that is, a Companion of the Order of Australia, which is the highest honour. When he was Premier, I went to him about the statute of limitations and he did not hesitate. He said, “What ticket price can you put on justice? You can’t. You’re either committed to delivering justice or you’re not.” It was during the first year of our first term that Hon Mark McGowan said to me, “You can’t put a ticket price on justice, Attorney.” We are at that inflection point again. We are committed to doing this for the victims. We cannot put a costing before the Parliament because we do not know how many people are suffering from asbestosis or silicosis who will not go on to develop a further disease, a terminal disease. As a community and as a Parliament, we are committed to delivering justice to those people.

I thank the members for Cottesloe and Mount Lawley and, importantly, the Leader of the Opposition for their support of this bill. I hope we can pass it today and get it the other place but we will see. I understand we will do consideration in detail after question time. May it please you, Acting Speaker.

Debate adjourned until a later stage of the sitting, on motion by **Ms C.M. Rowe**.

[Continued on page 3011.]