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Dr Mike Nahan; Mr Dave Kelly; Mr Bill Marmion; Mrs Liza Harvey; Mr Roger Cook; Mr Mark McGowan; Ms Rita Saffioti; Mr Sean L'Estrange

PERTH CHILDREN'S HOSPITAL — MINISTER FOR HEALTH

Standing Orders Suspension — Motion

DR M.D. NAHAN (Riverton — Leader of the Opposition) [12.10 pm] — without notice: I move —

That so much of standing orders be suspended to enable the following motion to be moved forthwith —

That this house expresses deep concern with regards to the Minister for Health for his unprecedented attempt to gag the opposition from holding the McGowan government to account in relation to prematurely accepting practical completion of the Perth Children's Hospital and its mismanagement of the project since forming government.

This is urgent. The issue of Perth Children's Hospital is one of the most important facing the government and the public of Western Australia. It is a magnificent, but empty, \$1.2 billion hospital. It is obviously a legitimate and necessary thing for the opposition and the Parliament to debate. It has been controversial for some time, and has been vigorously debated in this house for a number of years. Last Friday I received a letter from the Minister for Health, basically telling the opposition to temper and reduce debate on this important issue, in public and in the community.

Standing Orders Suspension — Amendment to Motion

MR D.J. KELLY (Bassendean — Minister for Water) [12.11 pm]: I move —

To insert after "forthwith" the following —

, subject to debate being limited to 15 minutes for government members, 15 minutes for non-government members, and 15 minutes for Independent members

Amendment put and passed.

Standing Orders Suspension — Motion, as Amended

The SPEAKER: Members, as this is a motion without notice to suspend standing orders, it will need the support of an absolute majority for it to proceed. If I hear a dissentient voice, I will be required to divide the Assembly. Ouestion put and passed with an absolute majority.

Motion

DR M.D. NAHAN (**Riverton** — **Leader of the Opposition**) [12.13 pm]: I move the motion. I will be the lead speaker, but we have 15 minutes. The children's hospital is one of the most controversial issues facing the government and the state. It is a magnificent, but empty, hospital, costing the state \$1.2 billion. Practical completion was taken by the government in April of this year, and had a range of issues related to it. That was a controversial decision. It is an issue that we have debated in this house extensively in this and previous terms of government. It is now the subject of a Public Accounts Committee review, led by the member for Armadale as chair, and the member for Bateman as deputy chair. It is also subject to the Langoulant inquiry. A government-controlled committee is investigating the issues very thoroughly, often with public submissions. The Langoulant inquiry is also taking submissions and inquiring into the issue. Last Friday, the Minister for Health sent me a letter that reads, in part —

I ask you and the Opposition to temper your comments on the granting of practical completion and the source of lead contamination in potable water at $PCH \dots$

He stated that the reason for this request was that —

Your recent public commentary —

I assume this is both in the Parliament and in public —

seems to indicate that you are willing to support the case advanced by the contractor, in their commercial interests, rather than the State, who is acting in the public interest.

In other words, us debating this issue in Parliament is pursuing the interests of the contractor. In the carriage of the debate in this house, on one of the most important issues facing the state, the minister asked us to temper and stifle debate on it. The issue that he asked us to stifle our discussions on, which is subject to the Public Accounts Committee review and to the Langoulant inquiry, is the decision, amongst other things, to take practical completion. The government of the day, in a controversial manner, which we have discussed in this house—it was not unanimous—took practical completion in April, after the Department of Health said we are nowhere close to this. The government took practical completion of the hospital, while defining the lead in the water supply as a minor defect. That is a controversial decision and should be the subject of debate in this Parliament. The idea

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that the opposition should not debate that issue here and in public, usually—almost always—based on information provided by the government, is an outrageous attempt to stifle parliamentary debate, and the opposition.

The other wideranging issue for some time has been the source of the lead in the water supply to the hospital. Again, the minister asks us to desist from talking about and debating the source of the lead, even though he does it extensively, and has done it extensively in this Parliament and in the last Parliament, speculating on all sources. A fundamental and crucial role for an opposition is to debate, using received evidence, arguments and reports from the government on issues of public concern. There is no doubt that the decision to take practical completion of the children's hospital, and the source of lead in the water, are major issues that this Parliament must discuss.

I received the letter from the Minister for Health last Friday. The first thing I did was get hold of the minister and ask for a briefing on it. I did not say anything publicly until I received a briefing at 9.00 am today. We received a briefing from the Department of Health on a range of technical issues, but that was not the issue of the letter. The letter was saying that there was some commercial or contractual reason for us to desist debating. We found that this letter had not gone to the State Solicitor's Office for legal advice. What is the legal basis for this accusation? There was not any. We asked whether the same argument was being put to the Public Accounts Committee or the Langoulant inquiry. No, it was not. The letter was sent only to the opposition, in a clear attempt to stop us from debating decisions of government that are legitimate and controversial issues. These are issues that we have debated extensively. We can only interpret this as an attempt to stifle Parliament in dutifully carrying out its responsibility on an issue of unquestioned importance to the community. It is outrageous behaviour from a minister who is basically asking the opposition not to examine his activities and decisions—do not look at them; ignore them.

We worried that there might be some legal issue, so we did not say anything, but the first meeting we had with the minister's people revealed that there was no substance to the accusations in the letter. There is a lot of material, and I am sure that the Department of Health is unquestionably doing its best to resolve this issue, but the attempt by the Minister for Health to stop the opposition and Parliament from scrutinising this issue is an outrageous attempt to stifle the functions of Parliament.

MR W.R. MARMION (Nedlands) [12.19 pm]: I wish to speak in favour of the motion. This is unprecedented. Never in my career in government have I seen a letter written by the government to the opposition basically asking it to go easy on a topic. The job of the opposition is to hold the government to account. The Perth Children's Hospital is one of the largest infrastructure projects that the government is involved in. There are problems with it at the moment. The media and the public want to know what is going on, and what happens? A letter is addressed to the Leader of the Opposition stating —

... I ask you and the Opposition to temper your comments on the granting of practical completion and the source of that contamination in potable water at PCH, as they may undermine the contractual and commercial position of the State.

The pertinent issues are then explained. Today we had a briefing. We wanted to get some background on whether this is a real issue. We do not want to cause the state more expense in any claims, so we accepted a briefing. In the briefing we got a case for why practical completion should have been granted and that they are doing everything they can to improve the water in the hospital. That is great; we are happy with that, but we take umbrage at a letter that tells us to go quiet, to gag us, to stop us —

Mr V.A. Catania: Muzzled like a dog.

Mr W.R. MARMION: Yes, to stop the democratic process. I cannot come into Parliament and say what I want to say. That just goes against the whole democratic process and what Parliament is all about. There is an implication in this and what the minister said last week in a debate that we are on the side of the proponent, John Holland. That is not the issue here. The total issue is that we, as members of Parliament, are being muzzled by a letter, and in my view that is a contempt of Parliament. It is just outrageous that we get a letter saying, "Go easy, guys. We reckon practical completion was reasonable when we did it." That is debatable. The letter states that the government has most of the reports about the source of the lead and that most of them state that it is not the dead leg. However, that of course disregards the Building Commissioner's report that stated that it was a possibility. We are not saying that it is the source of the lead, just like the Building Commissioner; we are only quoting from the Building Commissioner's report that one possible source of the lead in the water in the hospital is the dead leg or the ring main that was contaminated. I think that is a reasonable thing to suggest. The Building Commissioner thought it was reasonable, and that is all we are doing. The reason that the opposition has suspended standing orders is to make the point that we will not be muzzled and, indeed, we have a job to do. That is why we are sitting in Parliament today. We take umbrage at the letter. I was quite surprised in the briefing to find out that the letter did not go to crown law for advice.

Mr B.S. Wyatt: Crown law?

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Mr W.R. MARMION: Or that it did not go to some state source for some legal advice on this, and I think it was confirmed today that that was the case.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [12.22 pm]: The reason the opposition has been raising this issue of practical completion is that through the freedom of information process, we received briefing note after briefing note right up until 31 March 2017 stating that the government should not take practical completion of the hospital until the lead issue is resolved. Then, all of a sudden, on 10 April 2017, that changed and that was a decision of this Minister for Health. He went against the longstanding advice that the lead issue needed to be resolved and decided that the government needed to take practical completion of the hospital. We have been trying to interrogate that issue and have met nothing but roadblocks from this government in doing so. We tried, unsuccessfully, to get a copy of the draft report from the Building Commission for 164 days. We FOI-ed this document because we had a suspicion that some amendments might have been made between the draft document and the final document from the Building Commission, and we were right. We went through an FOI process to the Building Commission and we got a no. We went through an internal review process for FOI and we got a no. We went to the Information Commissioner and requested him to review those decisions and he forced the release of the draft report. What did we find in the draft report? We found some significant differences. The draft report had a recommendation —

The Building Commission recommends that an independent organisation undertakes a scientific and forensic testing regime to fully determine the source, or sources, of the lead at the PCH. This work should also address whether there is more than one source of the lead and to what degree each is contributing to the elevated lead levels.

That sounds like a sensible recommendation. That was watered down to the following —

The Building Commission recommends that the State appoints an independent organisation to review the existing test results and carry out whatever additional tests are needed to determine the proportions of lead that came from the identified sources ...

There was another recommendation about water testing —

A strategic forensic analysis of chemical signatures in water is required to conclusively determine the source or sources of excessive lead.

I would have thought that a government would want to identify all of the potential sources of lead going into a children's hospital. Why would it water down a Building Commission recommendation to identify that? We on this side of the house are not defending John Holland. If John Holland is responsible for the source of the lead, it needs to pay for all of the rectification efforts that have occurred. However, if this is a monumental stuff-up by the Department of Health and the state, the government should not be trying to pin it back on a contractor in a misleading fashion, and that is what we are trying to determine. We want to find the source of the lead and we want to know who is responsible. This government should be following that course of attack as well. Instead, what do we get? We get this ridiculous letter. We knew a lawyer had not drafted this letter because of its content. It is amateur hour. The letter states —

I outline the facts of these two matters so as to inform your future public comment. Your recent public commentary seems to indicate that you are willing to support the case advanced by the contractor, in their commercial interests, rather than the State, who is acting in the public interest.

Several members interjected.

Mrs L.M. HARVEY: Wait; it continues —

We should not forget that this is an unreliable contractor that has missed multiple dates over many years. I ask you to put the interests of the public first.

This is the Minister for Health putting out information that the contractor is unreliable when he is about to go to court on behalf of the state. What on earth would a court think of that comment being out in public and being sent to an opposition: "Stop examining my decision to put the taxpayer money of the state of Western Australia at risk by taking practical completion prematurely"? That has been our argument and that has been our premise: find the source of the lead, act fairly and justly, and let all Western Australians know exactly what happened at Perth Children's Hospital, instead of trying to shore up the minister's decision and put someone else in the frame. If it is the minister's decision that has put the hospital and taxpayer funds at risk, it needs to be scrutinised. If the Department of Health did not perform its duties and allowed the lead into the water, it needs to be held accountable. If it is John Holland, by all means, make it pay. But find the source, be truthful and stop trying to shut down the opposition from doing its job in this Parliament. There are not many of us; we do not get many opportunities to scrutinise and the government blocks us at every opportunity—164 days trying to withhold the report from us. It is appalling.

Mr R.H. Cook interjected.

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The DEPUTY SPEAKER: Minister!

MR R.H. COOK (Kwinana — Minister for Health) [12.27 pm]: Madam Deputy Speaker, thank you very much for the opportunity to speak on this motion. The fact of the matter remains that this opposition has to decide whose side it is on. Is the opposition on the side of Western Australia or has it decided, for lack of any other material to bring to this place, to insert itself into this legal argument simply because it has nothing else to do and nothing else to run with.

Dr M.D. Nahan interjected.

Mr R.H. COOK: The Leader of the Opposition has a decision to make: is he going to back the WA taxpayer or is he going to insert himself into this legal argument?

Dr M.D. Nahan: We were elected to represent the people of Western Australia.

Mr R.H. COOK: Then get on and do it, Leader of the Opposition.

Dr M.D. Nahan interjected.

The DEPUTY SPEAKER: Leader of the Opposition, I think we have heard you give your presentation. We would like to hear the Minister for Health now, please, so would you please not yell across the chamber. Minister for Health, if you want him to yell across the chamber, keep talking to him, but you probably need to talk through the Chair.

Mr R.H. COOK: There is this feigned outrage we are getting from the other side at the moment because the opposition is trying to conjure up some sort of conspiracy theory that somehow we are trying to gag it and undermine its role as the opposition.

We are simply not. But we do ask the question: what sort of opposition does it want to be? We have made a decision that we want to be open and transparent as a government, so we will endeavour to provide the opposition and the WA public with as much information about this difficult issue as possible and as we are able to. What we also did, which is something we were never afforded in opposition, was provide a briefing from the department about the issues surrounding Perth Children's Hospital. We are being open and transparent. That is the hallmark of the government the Premier wishes to lead. The question is: what sort of opposition does it want to be?

This is not an exercise in trying to gag. This is an exercise of just simply saying to the opposition that it can choose to insert itself in the legal debate between the government and the contractor, or it can choose to do its job as an opposition, which is to actually examine issues of public policy. All we see from this opposition is seemingly questionable motives behind who it is backing in this one—the WA taxpayer or this big contractor—coming in here with questions and arguments day in, day out that fit nicely within the narrative of the managing contractor. We just simply ask the question —

Ms J.M. Freeman: Whose side are you on?

Mr R.H. COOK: Whose side is the opposition on? That is the question we want the answer to.

Several members interjected.

Mr R.H. COOK: We afforded the opposition the opportunity to acquaint itself with the argument because we thought that with a grown-up opposition we could have a good discussion around a briefing, so that it could understand the complexities of the issues involved. But it is clearly not up for that. It is not up for actually fulfilling its role as an opposition. All it wants to do is enter into these little exercises of conjecture and rubbish that we see from it.

We have also seen today this continuous confusion that seems to reign across the other side. If we look at the motion, it refers to "prematurely accepting practical completion of the Perth Children's Hospital". This was part of the motion that it moved in this place last Wednesday. The problem is that only one member of the opposition actually argued that we took practical completion too early. The Leader of the Opposition and the member for Nedlands actually argued that the hospital should already be open. I am not quite sure what is driving these arguments. Only the member for Churchlands actually stuck to the script. I suspect that was because they just did not tell him about the flip-flopping nature of their arguments. We had the member for Churchlands talking in some detail about the premature acceptance of practical completion, yet we had the member for Nedlands and the hapless Leader of the Opposition arguing that the hospital should already be open. We have to have a resolution from the other side. What sort of opposition does it want to be? And, at a much more basic level, what does it want to argue? Does it want to argue that the hospital should be open, or does it want to argue that we took practical completion too early? All I get is these confused narratives, and today is another exercise in that.

The member for Scarborough once again raised the opposition's confused state of mind around the issues to do with the Building Commission. The Minister for Commerce and Industrial Relations tried on several occasions last week to provide clarity around this. I will once again quote the Minister for Commerce and Industrial Relations, for the benefit of the house and those opposite, on how the Building Commissioner works. He said —

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I rise under standing order 82A to add further information to my answer to a question. Yesterday I was asked by the member for Nedlands inter alia why the independent Building Commissioner chose to edit the draft recommendations to their final form in respect of his report into Perth Children's Hospital of April 2017. This morning I spoke to the independent Building Commissioner about why he edited the recommendations in the way he did. The Building Commissioner explained to me that he chose to edit the recommendation because he believes it was appropriate.

He believes it was appropriate. The Minister for Commerce and Industrial Relations continued —

Further, in respect of the member's supplementary question, I note that this was substantially the same as the question without notice 350 to me of 17 August 2017 from the Leader of the Opposition. I urge the member to refer to that answer.

The Building Commissioner is an independent statutory authority. The Minister for Commerce and Industrial Relations has no capacity to advise or instruct the Building Commissioner, in the same way that I have no capacity to instruct the Chief Health Officer. This project is under the guidance of both the Building Commissioner and the Chief Health Officer, executing their statutory roles as independent statutory officers. Nevertheless, day in, day out we see these conspiratorial —

Dr M.D. Nahan: Why did you write the letter?

Mr R.H. COOK: I wrote the letter, Leader of the Opposition, because I was trying to inform you so you can do your job better. It was to assist you to do your job, so that you can actually argue the public policy issues, not simply insert yourself into a legal argument between the WA taxpayer and this contractor. The question for the Leader of the Opposition is: what sort of opposition does he want?

Dr M.D. Nahan: Effective! Hold you to —

Several members interjected.

Dr M.D. Nahan: To hold you to account for your decisions!

Mr R.H. COOK: Then, Leader of the Opposition, you have to decide what your argument is! Did we take practical completion too early, as the member for Churchlands contends, or should the hospital already be open, as the member for Nedlands and you contend? It is a confused rabble over there! No wonder the opposition is having to insert itself into this argument with the assistance of the managing contractor! The opposition has no arguments! It is hopeless in its pursuit of this particular issue. We tried to do the opposition and the WA public a favour by providing the opposition with some extra information in addition to the debate we had in this place. We tried to do the opposition a favour by providing it with extra information by way of a briefing. We are trying to be transparent and accountable around this hospital in a way that the former government never was because it was trying to hide its stuff-ups around this project! We are trying to fix them! And your problem, Deputy Leader of the Opposition is, firstly, you are confused and, secondly, you are hopeless, and therefore you are happy to insert yourself in this legal argument. The fact of the matter is that this mob has to decide what it will do. Is it going to back the WA taxpayer or is it going to continue to try to insert itself in this debate on behalf of the managing contractor? We are trying to provide the opposition with all the information it would expect a grown-up government to provide a grown-up opposition. Clearly, it is not up for the task. We are trying to provide the opposition with information so that it can get on with its duties as an opposition, but all it is simply interested in is cheap political pointscoring at the expense of the WA taxpayer! That is what is going on here.

The opposition has once again come into this place firing off limp, deranged and confused narratives and wasting the time of this Parliament with suspension motions. But we will let it continue to suspend because every time it suspends standing orders, it exposes itself for what a useless mob it is!

MR M. McGOWAN (**Rockingham** — **Premier**) [12.38 pm]: The Liberal Party has some gall even raising this issue. Considering its record in government of not being able to deal with this issue, the fact it even comes into Parliament to talk about this issue shows it has no appreciation of what it did when it was in government. It was the one responsible for selecting the main contractor in this contract. It was the Liberal Party in government that made a mess of this project, and it is Labor now in government that is pulling out all the stops to try to fix its errors.

Let us go to the letter. It basically said two things. It asked the opposition to temper its comments in relation to this matter—temper its comments. This fake, mock outrage, this over-the-top behaviour, is because it has been asked to temper its comments. The way it goes totally from zero to 100 about us asking it to temper its comments is absolutely incredible. The reason we have asked members of the opposition to temper their comments is that the head contractor, which has not done a good job on this project, is clearly feeding them information and they are running into this Parliament and trying to cause trouble. That is what they are doing; they are doing it all the time. Several members interjected.

Point of Order

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Ms R. SAFFIOTI: The Leader of the Opposition said that something was a lie. He would need to move a substantive motion to make that allegation.

Dr M.D. NAHAN: The Premier just accused us of being fed information for our debate from John Holland. He said, "You are clearly". That is untrue.

The DEPUTY SPEAKER: Leader of the Opposition, my understanding is that a point of order has been called to correct some language. I agree that you called the Premier a liar and that is not parliamentary.

Dr M.D. NAHAN: He stated —

The DEPUTY SPEAKER: Leader of the Opposition, I am sorry, but can you just let me finish. Would you please sit down. If you used the word "liar" to accuse the Premier of behaviour, you need to withdraw that.

Dr M.D. NAHAN: On a point of clarification —

The DEPUTY SPEAKER: No; there is no explanation.

Dr M.D. Nahan interjected.

The DEPUTY SPEAKER: If you used the word "liar" in relation to the Premier —

Dr M.D. NAHAN: I did not. I said, "That is a lie". The statement that he made was untrue. It was a lie.

The DEPUTY SPEAKER: Okay; that is fine. Continue on, Premier.

Ms R. SAFFIOTI: My understanding is that you cannot say that that is a lie in this place and that has been, as I understand —

Dr M.D. Nahan: Are you questioning the Deputy Speaker?

Ms R. SAFFIOTI: No.

The DEPUTY SPEAKER: I am sorry, but my decision will stand. Just be careful with your language in the house, particularly around mistruths and lies.

Mr S.K. L'ESTRANGE: I have a point of order.

The DEPUTY SPEAKER: If it is to do with this, I have made my decision.

Mr S.K. L'ESTRANGE: No, it is not to do with this. The Premier was making an imputation on the opposition that it was in dealings with the contractor. Standing order 92 states —

Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer or members of the Assembly or the Council are disorderly other than by substantive motion.

The DEPUTY SPEAKER: Thank you. That is not a point of order.

Debate Resumed

Mr M. McGOWAN: Clearly, the Liberal Party in this state is in the pocket of John Holland in relation to these matters. The Liberal Party is pursuing the interests —

Point of Order

Mr S.K. L'ESTRANGE: Madam Deputy Speaker, surely what the Premier just said is an imputation against members of Parliament on this side of the chamber.

The DEPUTY SPEAKER: I am sorry; it has to be against an individual. In this matter, you are not quite correct in your interpretation of that standing order, but I appreciate that you read the standing orders, member.

Debate Resumed

Mr M. McGOWAN: The Liberal Party is in the pocket of John Holland in a dispute between a multinational corporation and the taxpayers of Western Australia. The opposition comes in here in question time and raise questions that are clearly in the interests of that multinational corporation. We are on the side of the Western Australian taxpayers and that is why we took control of that hospital. Had we not taken control of that hospital, it would never open because it would not be in the commercial interest of John Holland to allow that hospital to open. All the opposition does is come in here and pursue John Holland's interests rather than the interests of the taxpayers of Western Australia. This motion today is all about a letter the Minister for Health wrote to the Leader of the Opposition to say two things. There are two things in it. First, he asks the Leader of the Opposition and the opposition to temper their comments. That is it. The second point in it is to offer the opposition a full briefing on this matter. We have learnt from opposition members that they reject briefings because they are happy to be wilfully ignorant or to pursue the case of outside parties against the taxpayers of Western Australia. We know that their record in government was to lose the state nearly \$40 billion. Here they are pursuing the interests of a private contractor against the taxpayers of Western Australia. They are determined to make the debt

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situation they created even worse for the taxpayers of Western Australia. We will not have it. We are going to proceed on the basis of defending the taxpayer interest and will open that hospital as soon as possible. That is why we took control of that hospital earlier this year. As the Leader of the Opposition noted from the letter sent to him by the Deputy Premier; Minister for Health, the agency briefed him that that was the right course of action when he was Treasurer. The truth of the matter is this: this is just another example of the opposition trying to cause trouble and turmoil against the interests of the taxpayers of Western Australia in favour of a multinational corporation. We do not accept it; we will always act in the taxpayers' interests, as opposed to the Liberal Party of Western Australia. It seems to be in the pockets of any multinational corporation that comes along.

Division

Question put and a division taken, the Deputy Speaker casting her vote with the noes, with the following result —

	(4.0)
Ayes	(13)

Mr C.J. Barnett Mr I.C. Blayney Mr V.A. Catania Ms M.J. Davies	Mrs L.M. Harvey Mr Z.R.F. Kirkup Mr S.K. L'Estrange Mr R.S. Love	Dr M.D. Nahan Mr D.C. Nalder Mr K. O'Donnell Mr P.J. Rundle	Mr W.R. Marmion (Teller)
Noes (32)			
Ms L.L. Baker	Mr W.J. Johnston	Mrs L.M. O'Malley	Ms J.J. Shaw
Dr A.D. Buti	Mr D.J. Kelly	Mr P. Papalia	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr F.M. Logan	Mr S.J. Price	Mr C.J. Tallentire
Mr R.H. Cook	Mr M. McGowan	Mr D.T. Punch	Mr B. Urban
Mr M.J. Folkard	Ms S.F. McGurk	Mr J.R. Quigley	Mr R.R. Whitby
Ms J.M. Freeman	Mr K.J.J. Michel	Ms C.M. Rowe	Ms S.E. Winton
Mr T.J. Healy	Mr S.A. Millman	Ms R. Saffioti	Mr B.S. Wyatt
Mr M. Hughes	Mr Y. Mubarakai	Ms A. Sanderson	Mr D.R. Michael (Teller)

Pairs

Mr D.A. Templeman
Mr M.P. Murray
Mrs M.H. Roberts
Mr P.C. Tinley
Ms E. Hamilton

Question thus negatived.