

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pendal

MEMBERS OF THE LEGISLATIVE ASSEMBLY, CODE OF CONDUCT

Amendment to Motion, as Amended

Resumed from 27 August on the following motion, as amended, moved by Dr G.I. Gallop (Premier) -

That the House adopt the code of conduct for members recommended by the Procedure and Privileges Committee in its report tabled on 27 February 2003, as follows -

Code of Conduct

Preamble

Members of the Legislative Assembly recognise that they are in a unique position of being responsible to the electorate. The electorate is the final arbiter of the conduct of members of the Legislative Assembly and has the right to dismiss them from office at regular elections.

Members of the Legislative Assembly accordingly acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution of Parliament, and using their influence to advance the common good of the people of Western Australia.

The Code

(1) Purpose of this Code

The purpose of the Code of Conduct is to assist members of the Legislative Assembly in the discharge of their obligations to the Legislative Assembly, their constituents and the public at large.

(2) Conduct

Members shall accept that their prime responsibilities are to -

- (a) Perform their public duty in an objective manner and without consideration of personal or financial interests, including a duty to declare any relevant private interests; and
- (b) Represent the interests of their own electorate and their constituents.

(3) Disclosure of conflict of interest -

- (a) A conflict of interest exists where a member participates in or makes a decision in the execution of their office knowing that it will improperly and dishonestly further the Member's private interest or another person's private interest directly or indirectly.
- (b) A conflict of interest also exists where the member executes, or fails to execute, any function or duty knowing that it will improperly and dishonestly benefit their or another person's private interests directly or indirectly.
- (c) Members are individually responsible for preventing conflicts of interest and must carry out their official functions and duties and arrange their private affairs to the best of their endeavours to prevent such conflicts of interest arising.
- (d) Members of the Legislative Assembly must take all reasonable steps to declare any conflict of interest between their private financial interests and decisions in which they participate in the execution of their office.
- (e) This may be done through declaring their interests under the *Members of Parliament (Financial Interests) Act 1992* or any rule or order of the House that may so require through declaring their interest when speaking on the matter in the Legislative Assembly or a Committee, or in any other public and appropriate manner.

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- (f) A conflict of interest does not exist where the member is only affected as a member of the public or a member of a broad class.

(4) Bribery

Members must not promote any matter, vote on any bill or resolution, or ask any question in the Legislative Assembly or its Committees, in return for payment or any other personal financial benefit.

(5) Gifts -

- (a) Members must declare all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.
- (b) Members must not accept gifts that may pose a conflict of interest or which might give the appearance of an attempt to corruptly influence the member in the exercise of his or her duties.
- (c) Members may accept political contributions in accordance with Part VI of the *Electoral Act 1907*.

(6) Use of public resources

Members must apply the public resources to which they are granted access according to any guidelines or rules about the use of those resources.

(7) Use of confidential information

Members must not knowingly and improperly use official information which is not in the public domain, or information obtained in confidence in the course of their parliamentary duties, for the private benefit of themselves or others.

(8) Proper relations with Ministers and the public service -

- (a) Members should not approach Ministers, public servants or public bodies on a matter connected with a private interest without appropriate disclosure.
- (b) Members shall not use improperly their influence in order to obtain appointment, promotion, advancement, transfer or any other advantage within the public sector on behalf of themselves or another or to affect the proper outcome of any procedure established under the legislation for the management of the public sector.

(9) Freedom of Speech

Members must be mindful of the privileges conferred when speaking in the Legislative Assembly and should consciously avoid causing undeserved harm to any individual who does not enjoy the same privileges.

(10) Misleading the Parliament or the Public

Members must not knowingly mislead the Parliament or the public in statements they make and are obliged to correct the Parliamentary record as soon as possible when incorrect statements are made unintentionally.

(11) Participation in Political Parties

It is recognised that some members are non-aligned and others belong to political parties. Organised parties are a fundamental part of the democratic process and participation in their activities is within the legitimate activities of Members of Parliament.

Procedure for breaches of the Code

Alleged breaches of the Code of Conduct should, at the earliest opportunity be dealt with under the procedures prescribed for raising a matter of privilege under the Standing Orders.

to which the following amendment was moved by Mr D.F. Barron-Sullivan -

Section (11) - To insert after "Members of Parliament." the following -

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- (b) While acknowledging that Members have a broad duty to the State and other responsibilities, such as to political parties, their first duty and paramount responsibility as elected representatives is to represent the interests of their electorate and constituents.
- (c) Notwithstanding the legitimate role of political parties, no Member who is a member of a political party shall be constrained by, or obliged to follow, any directive from, or decision by, any body of that political party in connection with his or her Parliamentary duties.

DR J.M. WOOLLARD (Alfred Cove) [10.36 am]: I support this amendment. I listened to the comments of the Leader of the House yesterday. He said that he believed the Labor Party was the party of longest standing in this State and that, under party rules, united its members stand in the caucus room and in this place. However, as members of Parliament, we are elected by our constituents, and we should put our constituents' interests first. Our constituents' interests should come before any party politics.

As members know, I have been a union member since I first started my nursing career. Fortunately, I have always belonged to a very professional union. Even when there were work bans and stop-work meetings, it was always up to the individuals to decide whether they wanted to join those stop-work meetings or work bans. They were not intimidated or bullied into joining any of those meetings or bans. This Government should look at what is happening in England, where members of the Labour Party are able to vote according to their beliefs, and are allowed to cross the floor. I have seen two members of the Liberal Party cross the floor; I have never yet seen a member of the Labor Party do so. However, I appreciate that that is because, at the moment, they may be forced to leave the party if they cross the floor. A motion like this gives them an opportunity to speak out. As most members in this place know, several backbenchers and, probably, ministers disagree with the directive that the Government is following. Certainly, with the numbers that the Labor Party has at the moment, it should allow its members to speak out when they disagree; otherwise some members may lose their seat at the next election. They are not happy with the direction of the Government, but they have not been given the opportunity to speak out so that people will know that they are not happy. Even if the Labor Party does not allow those members to cross the floor, at least it could allow them to speak out and to abstain from voting.

This is a very good amendment because it means that everyone in this House would be doing what people in the community would like to see them doing. Even though people vote for someone belonging to a party, they still think the elected member is putting the community's interest before the party's interest. At the moment, in this House, there is point-scoring on both sides, reflecting party interests. Decisions have been made on most of the Bills before members even come into this Chamber. Members are not given the opportunity to listen to the debate and then decide the way they would like to vote. That does not apply only to the Labor Party. I know Liberal Party members who, at different times when amendments have been moved, have stated that, while they think the amendment is a good idea, the go-ahead was not given in the party room. However, Liberal Party members have crossed the floor, which I have not seen any Labor Party members do. This amendment would do a great deal to encourage members to listen to the debate, think about the issues and vote in the best interests of the community, rather than follow the straight party line, which will not always be in the best interests of their own constituents.

MR M.F. BOARD (Murdoch) [10.41 am]: I support the amendment moved by the member for Mitchell. The people we represent would be shocked to feel that an amendment is necessary to put these words into a code of conduct, when those words describe exactly what they expect of members. They believe in their hearts that that is what members of Parliament should do. A straw poll of the wider community would show that people are distressed to feel that members of Parliament are directed by party machines, unions or even individuals to vote in a certain way, because it suits their political objectives or allegiances, both inside and outside the State. That may not be in the interests of the community they represent. People would be shocked to find that this amendment needs to be put, and could be lost on the floor of the House today. If this amendment is lost, what are we, as members of Parliament, saying to our community? We are elected to represent them, and they place their faith in us. I sit in this seat as the member for Murdoch, because this seat is that of the member for Murdoch. It does not belong to Mike Board, except in the sense that I am the member for Murdoch at the moment. When I sit in this seat I represent the 48 000 people who live in the electorate of Murdoch, including some 26 000 voters. I happen to be a Liberal, and I am proud of that, but I represent those people. Hopefully, if I have done enough work, and I understand my community correctly, I am representing the majority of people in my electorate each time I vote. It is a tragedy that there are people in this House who are prepared to not represent their community in the political process but vote according to a deliberate line that is pushed by the party machine or, even worse, people or bodies outside the Parliament. The fact that we need to move this

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amendment to the code of conduct says something about the deterioration that has occurred on the Labor side of politics over a number of years.

In an election people go to the polls and vote for a particular individual. They vote for that individual on two bases, I believe. The first and foremost reason that people vote for a particular individual is that they believe that individual is the sort of person they would like to represent them in the Parliament. I hope the average voter will have at least enough information at hand to realise which individual he or she is voting for. The second reason that people vote for a particular individual is that they believe that individual has a set of values with which they agree. Generally, those values are advertised as the values of a particular political team. In politics people come together in teams, whether it be the Liberal Party, the Labor Party, the National Party, the Australian Democrats or One Nation. Each team stands for a certain set of values and ideals, and that makes it easier for people to decide which team they should line up with. That is how the party system has come about in the Westminster system of government.

Of course, under the original Westminster system of government every member of Parliament was an Independent. Under that system all 57 members of this House would be Independents and would deliver a conscience vote on every issue that came before them. The system was designed in such a way that every time someone spoke on a Bill members would vote according to their conscience or belief and according to their understanding of the information that had been put before them. That is why the debate and the rules of debate were so important. The debate was centred around giving people the opportunity to vote according to their conscience, on behalf of the people they represented. In order to make it easier for people to win debates, members formed teams. However, those teams were not mandatory teams in the sense that they are today when, regardless of what members may think about an issue, they have to toe the party line. That prostitutes the whole system of Parliament and what we are elected to the Parliament to do. It also denies the community - the people whom we represent - a true say in the parliamentary process. Members may say, "We dovetail. My constituents know that I am a Labor Party person, and that is why they elected me; therefore, every time the Labor Party tells me to do something, they will go along with it." However, that is not always the case. On a range of issues that affect the community, such as planning and environmental issues, retail trading hours and social issues, the community does not always follow the party line of the person who represents them. No member can tell me that all Labor Party voters are totally in support of some of the social engineering changes that have been put through this Parliament. However, Labor members voted on those issues on party lines. I suspect that members opposite would say that the majority of people in the community think that is the way Labor Party members will vote anyway. However, what happens when members opposite, particularly those in marginal seats, have to participate in a vote that they know will affect them at the election? They leave the Chamber and do not vote! That means one of two things. It means that they do not have the courage to stand either on their own conscience or as part of the political process; in other words, they do not have the courage to say, "This is the way I have to vote, and my community can judge me accordingly." Alternatively, it means that a member who represents 48 000 people in a metropolitan electorate denies those people a vote at all. Those people have effectively just left the Chamber - exit stage left - because they do not have representation in the Parliament. It is different for a member who is paired, as pairing is part of the process. However, it is a prostitution of the system for a member to disappear from a vote and deny the community any representation at all because the member is tied to a party line and morally or conscientiously cannot vote. To some degree it is corrupt for members to stand and say that they will represent their electorates and be their champion in the Parliament and then walk out the door when the going gets tough.

Mr J.J.M. Bowler: How many times have you crossed the floor; seven, eight, 10 times?

Mr M.F. BOARD: I will tell the member for Eyre what I have never done: I have never left the Chamber and been absent for a vote. I have voted against other members of this place, but they were conscience votes. I have never left the Chamber, unless I was paired, and denied my constituency an opportunity to see how I voted.

Several members interjected.

The ACTING SPEAKER (Mr A.P. O'Gorman): Members! The member for Murdoch has indicated that he will not take interjections and is trying to continue with his speech.

Mr M.F. BOARD: When people elect a member of Parliament, they expect that member, rightly or wrongly, to stand and be counted on issues. Nobody can tell me that it is not a prostitution of the system for members to disappear from the Chamber because they have been directed to vote a certain way and they do not want to be seen to be voting that way. Nobody can tell me that is the way in which the Westminster system was set up and that is what members of Parliament are here to do. Members know that is not right. Unfortunately, Labor members are bound by a regime for which the wider community would criticise them greatly. That regime, in

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fact, could cost many Labor members their seats if the wider community knew that they voted according to other people's wishes and not the wishes of those they represent. Who could those people be? Who directs the Labor Party to vote in a certain way? Who controls the Labor Party? In fact, who controls the Government of Western Australia?

The extension of what I am talking about, if this amendment is not supported, is that the Government of Western Australia can be manipulated from outside the Parliament and, therefore, Labor parliamentary members are irrelevant. Those government members who sit on the Treasury bench could be directed to vote in a certain way and not according to the wishes of those they represent. That is the extension of a vote against this amendment.

Several members interjected.

Mr M.F. BOARD: It is quite clear from the proposed amendment to the motion that members should not be directed and should vote according to their conscience and the views of the community they represent. The Opposition does that. We are happy to support the amendment. If we vote on this amendment today and some of our members cross the floor and vote with government members, they will not be expelled from the party, they will not be chastised or held up to ridicule, and they will not be told by some party machine or a group of union members that they are no longer wanted in the team because they had the presence of mind and the courage to vote according to their and their constituents' views. However, that is not true of Labor members, and they should reflect on that. Why can we do that and Labor members cannot? Members should reflect on the fact that even though we on this side belong to a party, we have the opportunity to vote according to our consciences. It happens regularly on this side of the Chamber. Sometimes it causes us some pain. It is sometimes difficult when people have to vote against the majority view within the party, but they do so because they are voting according to the view of the people they represent. I have seen it happen. The member for Ningaloo has done it, and the member for Warren-Blackwood may have done it in recent years. The member for Carine is waving her hand. She has also voted according to the wishes of the people she represents. The member for Roe is also waving. Has the member for Wagin voted according to his conscience and supported his community?

Mr M.J. Birney: There are not too many from that side of the House.

Mr M.F. BOARD: That is the point. Why is it that we can cross the floor and continue to sit within the party? It is an important point.

The amendment put forward by the Deputy Leader of the Opposition should be the first point in the code of conduct. It is the major issue that needs to be addressed. If we reinforced the fact that the community and our representation of it came before any so-called political allegiance, the perception of and respect for members of Parliament would be greatly increased. This code of conduct is in many ways about the perception of members of Parliament. We are perceived so poorly because of things that have happened both in and outside the House and the way in which the media has portrayed and exposed members of Parliament. People in public life are subject to that. The perception of members has not been strong. However, the biggest reason that the public perception of politicians is not good is not the interests in their day-to-day lives; it is the things they do not do. Governments make promises, particularly during elections, and then break the very commitments that the people elected them to fulfil. The community gives politicians permission to represent it based on a certain set of promised criteria. Within months of elections, those promises are broken, usually with the excuse that the coffers were not as full as expected. That adage has been used by new Governments since time immemorial. Governments say they thought they would have had more money available to them, and that in the circumstances not only can they not deliver what they said they would deliver, but also they will take more money from the community in the form of new taxes they said they would not impose. No wonder respect for members of Parliament has decreased. It is easy for those on the Treasury bench to get away with that because the party's members must toe the line and are not allowed to represent their communities. If members polled their communities on that issue, they would find that all would want their local member to vote against the taxes. What would happen then?

Mr J.B. D'Orazio: How would you fund it?

Mr M.F. BOARD: Why do members not be honest with the community in the first place about what the party can and cannot do, what it can and cannot afford, and whether or not it will raise taxes? It should stick to its election promises. If that happens, people might start respecting who we are and what we do, and we would not need flippy-floppy codes of conduct that are thin on substance. The major issue is our credibility in what we do and say. That credibility comes down to this amendment, to who we are as members of Parliament, to whom we represent, and whether we genuinely represent our community. Are we honest with the community when we go to an election and are we honest with who we are? When we stand in this place, do we represent the families

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who live in our electorates, or do we represent some faceless people from a political party or pressure group who control our preselections? If members do not vote for this amendment, they will be letting down their communities.

MR P.D. OMODEI (Warren-Blackwood) [11.00 am]: I have no hesitation in supporting the amendment moved by the Deputy Leader of the Opposition, which states -

- (b) While acknowledging that members have a broad duty to the State and other responsibilities, such as to political parties, their first duty and paramount responsibility as elected representatives is to represent the interests of their electorate and constituents.
- (c) Notwithstanding the legitimate role of political parties, no member who is a member of a political party shall be constrained by, or obliged to follow, any directive from, or decision by, any body of that political party in connection with his or her Parliamentary duties.

It is a very straightforward and worthwhile amendment. I read yesterday's *Hansard*. I was not in Parliament yesterday because I was at the Dowerin Field Day. It was a wonderful event. The feeling and the mood of the people in the wheatbelt - although not overjoyed - is positive. That will be very good for the Western Australian economy. While I was there, I got a fair bit of sun on my head and I met a lot of people. Being a member of Parliament, invariably, the discussions I had turned to politics. We talked about what has happened in Parliament, what the government agencies are doing and about the level of bureaucratic interference in private enterprise, and on it goes. People rely on their elected members to represent them in the Parliament without fear or favour. I do not think that is an extraordinary ask of the community.

The presiding officer governs members' conduct, which is determined by the command each presiding officer has over the Parliament. The Speaker or Acting Speakers can make it easy for members to say whatever they want to say within the rules, or, alternatively, use the powers of the standing orders to discipline members in the House. That is a very important role. Often, the Speaker is too lenient with members. I put myself in that category. Members will test the presiding officers only as far as the presiding officer is prepared to let them go. The issue of members' conduct in Parliament revolves around how the House is run. It also has something to do with the principles and the standing that members require of themselves in the House.

The parliamentary system is adversarial. The role of Her Majesty's Opposition is to question, argue and oppose what the Government proposes. Members know that over 90 per cent of the legislation that passes through this Parliament is passed with the agreement of both Houses. Very often, good, sound, rational debate takes place in this Chamber, which is what it is all about. However, at certain times the debate gets willing during certain proceedings such as question time, a matter of public importance or a suspension of standing orders when individuals are attacked for actions they have taken, are perceived to have taken or may have taken. That is as it should be. Why should we resile from that? That is healthy. That is what mankind is about. Man is a competitive animal. We compete for our place in the community, on the land or whatever way of life we choose to undertake. However, I fear that the reason this issue has been raised in this place is not to improve the conduct of members. It is being used by the Government as a means of attacking the Opposition and trying to put the Premier on a pedestal. It is being used to say that the Premier of Western Australia is about improving the conduct of members of Parliament. At the same time he moved the motion, the Premier's office armed government members with a whole lot of statistics on how many times the Leader of the Opposition, the member for Warren-Blackwood or some other member had been called to order. The parliamentary secretary to the Premier, the member for Rockingham - I am sorry that he is not in the Chamber, but I would certainly say this if he were - could not have gained all the information in the speech he made very early in the debate without compiling it himself or having somebody assist him to do so. I question the motives of the Government and in particular those of the Premier on this issue.

I take this opportunity to correct a couple of issues that I have read about in *Hansard* - although I know it was not in its corrected form. It relates to the comments made by the member for Albany, for whom I have some respect, when he first came to Parliament and a motion moved by the member for Kalgoorlie about the Albany Police Station. In the motion the Opposition called on the Government to build a new police station in Albany. We thought we would put the member for Albany to the test and see how good the rules of the Labor Party were. When the time came to vote on the motion, guess what happened? The Labor Party voted against it. It was unbelievable. Everybody knew that the next police station on the agenda to be upgraded was the Albany Police Station. The very thing that probably did not bring forward its upgrade was that the previous member for Albany was the Minister for Police and did not want to be seen to be favouring his electorate. It was a very even approach. The member for Albany said that I had said that it was a stunt, but it was a journalist who asked me in a radio interview whether it was a stunt. I said, no, it was the sort of thing that happened in the Parliament on a

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regular basis, particularly when new members came into the place. From time to time they are put to the test. My comment was that the member for Albany failed the first test he faced. I do not denigrate the member for Albany for taking that position. I know what the rules are in the Labor Party. That is partly the reason we moved the motion. We knew full well that a new police station would be built in Albany, and so it should. I do not know whether it has been built yet. Has it been built yet, member for Albany?

Mr J.J.M. Bowler: So why move the motion if you knew it was going to happen?

Mr P.D. OMODEI: The point was to ensure that it did happen, because at that time it was proposed but was not in the budget. I think the planning funds were put in the budget in the second year - the member for Albany may correct me on that. I think the project has started.

Mr P.B. Watson: It was the first year. We did it in our first budget.

Mr P.D. OMODEI: Why did the member vote against it? I do not want to waste too much time. It is a very important issue.

Mr P.B. Watson: Are you prepared to take an interjection?

Mr P.D. OMODEI: No, I am not prepared to take an interjection. I want to get on with my comments. It is all history. The issue of the Albany Police Station is now recorded in *Hansard* and is part of the history of this Parliament. If the member wants to talk about police stations, I can tell him that when we were in government, we built 27 police stations over an eight-year period. I attended the regional office in Bunbury when the minister opened it. It was all but built before the minister opened it. That is a proud record for the Opposition. The infrastructure for policing in Western Australia was at an all-time low when we came to government. Some police stations did not have enough fuel to put in their police cars and some did not have fax machines and so on. We put a lot of effort into upgrading police stations. Had we been re-elected for a third term, we would have pursued other policing matters in Western Australia. Those are the sorts of things that Governments do on a regular basis.

The issue at hand is the amendment relating to members' responsibilities to their electorate. It is a very important issue. It is no secret that if people in the Labor Party do not toe the party line, they are subject to possible ejection from the party. The contrasting convention is that in the Liberal party room, if people are not in favour of a motion or legislation that is before the House, they advise the party room of their intention to cross the floor, so that the leader is not surprised and reasons can be given for the member not voting with his side of the House. All matters of policy that are proposed in the Liberal Party system at various conventions or conferences are raised through various policy committees and go into the parliamentary party system where they are again debated.

The reality of politics is that people are only as good as their last best argument. No matter how good speeches may be when made in opposition, in the end the Government is the Government because it has more numbers. Therefore, although the content of a speech may be true and accurate and a speech may be brilliant, if the Government does not agree, the member will lose the debate. Members are therefore only as good as their last best argument, whether it be in this place or in the party system. If I cannot convince my colleagues in my party what the policy should be, the majority view becomes party policy. People do not have to be a Philadelphia lawyer to work that one out; that is how it happens. What does the member do then? If it is a matter of great concern to the member and the member's constituency, the member is morally obliged to put the position supported by the electorate.

When the issue of dairy deregulation came before the previous Government, it was a very difficult one for me. I am a farmer by profession. We used to milk cows years ago before the time of milk quotas. Of course, the evolution of milk quotas provided great stability for farmers over the life of consecutive Governments. When my predecessor, Hon Dave Evans, was Minister for Agriculture, he was given great credit for the introduction of milk quotas in the south west. The reality is that it was a decision of the Government of the day, which was the Court Government. Regardless of whose decision it was, it was good for the community and worked well.

As with many statutory authorities and statutory marketing bodies, over time anomalies occurred within the structure. About half the milk produced was sold as wholesale or market milk, which was for drinking, and the other half was sold for manufacturing. The drinking milk price was higher than that for manufacturing milk. People with a milk licence were reasonably assured of a good income. Those who did not have a milk licence received the manufacturing milk price and, of course, had a lower income. They always had the option to buy a licence when licences came up for sale. Half my constituents were in favour of deregulation and half were in favour of regulation. Half could see that under deregulation they would get a slightly higher price for their milk,

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because the collective wisdom was that the overall price of milk would drop; that the manufacturing milk price would rise and the marketing milk price would fall but that overall there would be a fair return to producers.

I argued very strongly within the party that deregulation should not occur. I argued that we should fix the anomalies in the industry and let regulation continue. I had to sell that argument to my community. I had to sell it to the people who owned a milk licence, but not a cow. They were one of the anomalies of the business. Of course, we know that some people own taxi plates but do not drive the taxis. I faced many challenges. When I spoke to the manufacturing milk producers in the new part of my electorate - Margaret River, Cowaramup and the like - they insisted that deregulation would be a better option for the growth of the industry. I stuck with my line that regulation should stay. I argued that line very strongly within the party room and in Cabinet. In the end, of course, farmers were offered a package to assist them with deregulation, which was a concern. When farmers voted on deregulation, the majority of them voted in favour of it. When the vote was put in Parliament, I was not present. However, if I had been present I would have voted with the Government's deregulation proposal. That is one of the dilemmas I experienced as a member of Parliament and it was likewise with the change of policy on forests. I argued as strong and as hard as I could, taking into account all of the facts and putting them in front of my colleagues. Although members may debate issues with the best intent in the world, in the end the majority rules and that is when they are faced with a challenge. That is when they have to make up their mind whether to vote to save their skin in the political party or to cross the floor. I have no hesitation in opposing what my party does. If I think it is in the best interests of my community to cross the floor, I will cross the floor. I cannot understand why crossing the floor is a big hassle. If members opposite do not have the courage to stand up for their constituencies and cross the floor, they should not be members of Parliament, the place in which the laws that govern the people of Western Australia are made. That is a major flaw in the policy of the Labor Party. As a Liberal member of Parliament I am proud of the fact that if I do not agree with something that the Liberal Party wants to do next week, all I have to do is approach the Leader of the Opposition and tell him that I intend to oppose the Bill, policy or strategy for the following reasons.

Mr J.J.M. Bowler: When was the last time you did that?

Mr P.D. OMODEI: I have had an interjection from my left. The member for Eyre has obviously not been listening to my speech. I have just spent the past 15 minutes explaining to the House when and how I have done that. When the member for Eyre receives a copy of the uncorrected *Hansard* tomorrow morning, he should read my reasoned speech because it makes good sense.

That is the stance we should take in this place. This motion is very sensible. Would it not be good for the Parliament if, for a change, the Government agreed to an amendment put forward by the Opposition? Would it not be a good thing if we were to agree on the conduct of members, which is a pretty important issue in this place? The code of conduct does not absolutely compel members to follow a certain direction. It states -

... their first duty and paramount responsibility as elected representatives is to represent the interests of their electorate and constituents.

- (c) Notwithstanding the legitimate role of political parties, no member who is a member of a political party shall be constrained by, or obliged to follow, any directive from, or decision by, any body of that political party in connection with his or her Parliamentary duties.

That is all it states. The code of conduct will not mean that members will be given the death penalty if they vote against their political party. It means that members will be allowed to stand up for their constituents, the people who put them in this hallowed place and in a position of responsibility. Not many Western Australians get the opportunity to represent a body of people in one of the world's most beautiful places, which is my situation. I believe this amendment is eminently sensible, and the Government should vote for it.

MR J.R. QUIGLEY (Innaloo) [11.20 am]: I listened with interest to the comments of members on the other side of the House, in particular the comments on the amendment, and the reasons and necessity for a code of conduct. My concern is that if there is a shortcoming with the code of conduct and the proposed amendment, it is that one cannot legislate decency or proclaim decent conduct. During the course of debate upon this amendment, I note that the member for Kalgoorlie has taken the trouble to slander and defame my son in a manner that would constitute a breach of privilege of this Chamber. Let me explain. On Tuesday, 26 August, he said -

The ACTING SPEAKER (Mr A.D. McRae): If the member for Innaloo is about to quote from the uncorrected copy of *Hansard*, I counsel him not to do so. If it is being used as an aide-mémoire, it is very important that he not attempt to use it as a tool to read from.

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pandal

Mr J.R. QUIGLEY: I will not read from it - the *Hansard* is closed. I was present in the Chamber when the member for Kalgoorlie said I attempted to have a criminal charge against my son dropped. This was no careless utterance from the member for Kalgoorlie, who happens to be the opposition spokesman for police. The circumstances of my son's charging were that he was charged with an offence under the Police Act, not a criminal offence. The offence for which he was charged under the Police Act - the legislation with which the opposition spokesman for police shows scant familiarity - related to the fact that while he was at the Lotto Skyworks, he observed a 14-year-old boy being attacked by some older, alcohol-affected youths.

Point of Order

Mr R.F. JOHNSON: I can understand the member's wish to make a contribution in this manner, but he is not speaking to the amendment before the House.

Ms A.J. MacTiernan: Yes, he is.

Mr R.F. JOHNSON: No, he is not.

Mr M. McGowan: Sit down.

Mr R.F. JOHNSON: Read the amendment.

The ACTING SPEAKER: The member will make his point of order.

Mr R.F. JOHNSON: I suggest that the member for Innaloo is not speaking to the amendment. He may wish to wait until we get back onto the main motion before he raises the matters he is covering now.

Mr J.C. KOBELKE: There is no point of order. The member has been on his feet for less than a minute. He started by speaking briefly about the generalities of the motion, and how the amendment related to that area. He is giving an example. To spend less than a minute on an example relating to the amendment and what has been said by other members is clearly not speaking away from the amendment before the House. As such, there is no point of order.

Several members interjected.

The ACTING SPEAKER (Mr A.D. McRae): This point of order does not mean that an open, cross-Chamber debate can be held on whether the matter is relevant. I have listened to a number of speakers on this matter, and members have introduced all manner of things by way of examples in the course of their contributions to progress their own arguments on the question before the House. The member for Innaloo is framing his argument in the same way. I will allow it. There is no point of order.

Debate Resumed

Mr J.R. QUIGLEY: In advancing his argument and criticising what was before the House, the member for Kalgoorlie sought to defame and slander my son by saying that he had been charged with a criminal offence. This is an allegation against my son that the member for Kalgoorlie would not dare repeat outside on the steps of this Parliament because, if he did, he would have a writ served on him faster than he could put on his necktie and do his hair for the cameras. That is a guarantee. What brings this Parliament into disrepute, and why it is called cowards' castle, is that on occasions people have entered this Chamber and attacked other people in a most despicable and unfair manner - like the member has sought to attack my son. I do not know the reason for this pathological hatred of my son that would make him do this -

Point of Order

Mr P.D. OMODEI: The member has not referred to the amendment before the House once in 10 minutes.

Ms A.J. MacTIERNAN: The Leader of the House has set out that the member is making an explanation of a point that was made by another member. It is unbelievable that the member for Warren-Blackwood has raised a point of order when he spent a good five minutes speaking about dairy deregulation in an attempt to make his point on this matter. The member for Innaloo is doing nothing more than setting out an example of conduct he believes is questionable, just as the member for Warren-Blackwood spent five minutes talking about the details of dairy deregulation - including how many people supported dairy deregulation and how many did not, and the circumstances of dairy deregulation. The member for Innaloo's example is much more closely related than we heard from the member who, strangely, made the point of order.

The ACTING SPEAKER (Mr A.D. McRae): I will give members guidance on this debate. I appreciate that the matters being raised are wide ranging. As I indicated earlier during a previous point of order, I have listened to a number of debates in which the examples used ranged from the dairy industry to people's involvement in party political processes and other issues used by way of example and argument to pursue their own line of debate.

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pandal

The House will not be able to hear the member for Innaloo frame his argument if members continually question his argument. I have heard reference on a number of occasions to the code of conduct and the public perception of the House and members' conduct. The line of argument is relevant and I will allow it.

Debate Resumed

Mr J.R. QUIGLEY: I thank the Acting Speaker for that ruling. During the debate, the member for Kalgoorlie sought to mount a reckless, defamatory and malicious attack on my son. As I said at the outset, the code of conduct cannot impose decency on people who have not been schooled to be decent human beings. For example, I cannot imagine for a moment that the member's late father, who was a member of a privileges committee of a Parliament of Australia between 1980 and 1983, would not turn in his grave - or view him from heaven - to see his son so brazenly, callously and viciously abuse the privilege of this Chamber to attack a family. He is abusing the voters of Kalgoorlie by using their vote to come to this place and attack my son in a vicious and malicious manner. I will not cry to draw attention to the grievous injury done to my son. I will not sob to draw attention to the grievous injury because I have already said on the public record that Scarborough boys do not cry. Scarborough boys are able to stand and call disgraceful conduct for what it is. It is a breach of the privilege of this Chamber. The test of the breach of privilege of this Chamber is that the member for Nedlands, who is rattling away next to the member for Kalgoorlie, would do well to advise him not to go on to the steps of this Parliament and read the speech he made in Parliament on 26 August 2003. I say that not because it is in the "blues" but because he would get a bluey from me so quickly his head would spin! This is disgraceful and defamatory conduct and a clear breach of the privilege of this Chamber. To seek to criticise the Premier for this -

Point of Order

Mr R.F. JOHNSON: I am dumbfounded that the member for Innaloo is allowed to continue along these lines. He has the opportunity to raise, as a matter of privilege, any concerns he has. He is using the debate on the amendment, which he has not referred to once, to raise these concerns. I ask Mr Acting Speaker to look at the amendment, which states, "While acknowledging that members have a broad duty to the State and other responsibilities, such as" -

The ACTING SPEAKER: Member for Hillarys, what is the point of order?

Mr R.F. JOHNSON: The point of order is that he has not spoken even once to the amendment -

The ACTING SPEAKER: I have already ruled -

Mr R.F. JOHNSON: You are allowing him to do so!

The ACTING SPEAKER (Mr A.D. McRae): I have already given advice to the House twice; I will do it for a third time. As far as I am concerned, provided the member frames whatever argument he wants to present within the context of the conduct of parliamentarians in this Chamber, which is what forms the core of this debate, it is allowable.

Dissent from Acting Speaker's Ruling

MR R.F. JOHNSON (Hillarys) [11.30 am]: I move -

That the House dissent from the Acting Speaker's ruling.

Mr Acting Speaker, this is the second time in 11 years that I have chosen to move a motion of dissent from the Speaker's ruling. The first time I did it, the Speaker overruled what the Acting Speaker had said, so I withdrew the motion. In essence, this is the only time that I have moved dissent from an Acting Speaker's ruling. I do so reluctantly, but I have to. As opposition Leader of the House, it is my duty to ensure that members on this side of the House conduct themselves properly, but also it is my duty to ensure that members on the other side of the House do not abuse the standing orders. Before us is the code of conduct introduced by the Premier, but at the moment we are dealing with an amendment to that code of conduct. Anybody can hear what the member for Innaloo has been saying, and I take on board the comments he has been making, but this is not an opportunity for him to raise his comments and concerns. He can wait until there is a break in proceedings and, if he has a problem with a member on this side of the House abusing the privilege of this House, he can raise that matter and refer it to the Procedure and Privileges Committee. He has chosen not to do that. He has not uttered one word in relation to the amendment before this House. Unless this House conducts itself properly -

Mr P.B. Watson interjected.

Mr R.F. JOHNSON: Mr Acting Speaker, I do not wish to constrain what the member for Innaloo wants to say at all, but he will have an opportunity to do so. Members want to move on with this motion and this amendment.

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pendal

Frankly, for you to rule that the member for Innaloo has been speaking to the amendment, or you are allowing him to digress, means I have to raise my concerns and my motion of dissent.

As the Acting Speaker in the Chair at the moment, we on this side of the House look to you for some fairness, equality and for the running of this Parliament. That is in your hands, Mr Acting Speaker. Dare I say it: we feel that is not happening at the moment. That is why I am forced to move this motion. I hate the thought of moving a motion of dissent, even if somebody who I may not personally like is occupying the Chair. The Chair is a very sacrosanct position in this Chamber, and that is why, with great reluctance, I moved this motion. The member for Armadale got up and spouted off - she had not even read the amendment and she tried to talk about other issues. You allowed her to do so - that is your prerogative - but if this Parliament is to be run properly and we are to adhere to a code of conduct, then for goodness sake let us try to conduct the business of the House in the way standing orders dictate we should. Every member in this House is happy to accept the standing orders. When you allow a member to digress from those standing orders, Mr Acting Speaker (Mr A.D. McRae), I am sorry, someone must speak the truth and air the concerns of members on this side of the House. They could feel that they are at a disadvantage because the person occupying the Chair occupies a significant position. If members on this side of the House are to feel comfortable, the rulings from the Chair must comply with the standing orders. We have not seen that happen this morning. I will not go on at length. Members know that I am capable of speaking for an hour. It has been said that I can speak under wet concrete. I could waste the Parliament's time, but I do not intend to do that. I want this dissent motion on the record. I want members to vote with their consciences according to the code of conduct, which we have been debating in this place for two days. I want the code of conduct to be relevant. If a ruling from the Chair completely pushes the code of conduct to one side, we have wasted the past two days in this House.

MR M.J. BIRNEY (Kalgoorlie) [11.35 am]: Notwithstanding the fact that I was mildly amused by the member for Innaloo's speech and was interested to hear more so that I could refute most of it, the member for Innaloo was not speaking to the amendment. Yesterday, for instance, the Leader of the House raised five maybe even six points of order and accused members of not speaking to the amendment. Quite simply, the amendment deals with two issues: the first part refers to a member's first responsibilities being to his electorate and to his constituents. The second part deals with the fact that a member should not be constrained by his or her political party. The member for Innaloo's diatribe about his son being attacked, which is totally untrue and baseless, has nothing to do with the amendment before the House. With the greatest of respect to you, Mr Acting Speaker (Mr A.D. McRae), it is unacceptable for an Acting Speaker of this House to be a highly partisan individual or a robust player in the debate when sitting on the government benches and to attempt to assume a completely bipartisan approach when sitting in the Chair. With the greatest respect, Mr Acting Speaker, you are that very person.

I put it to you, Mr Speaker that when the Acting Speaker (Mr A.D. McRae) is sitting in your Chair, he continues to conduct himself in the same partisan fashion as he does when he sits on the government benches. That was clearly reflected in his decision. That is why the leader of opposition business in the House has taken, for him, this unprecedented approach, supported by members on this side of the House. It is okay for members to engage in partisan politics and for members on this side of the Chair to interject, yell and scream and do anything they think they should do to make a point on behalf of their political party. However, when they take the Chair, everything should change. They should have the respect you have in this place, Mr Speaker, and they should discharge their duties accordingly. I put it to you, Mr Speaker, that when the member for Riverton, as Acting Speaker, made two decisions in this place only 10 minutes ago, he was not discharging his duties in a bipartisan fashion. That is what any person charged with holding the office of Acting Speaker should do. I wholeheartedly support the motion moved by the opposition leader of business in the House.

The SPEAKER: It is true that we are debating a dissent to the Acting Speaker's ruling. However, that does not give licence to members to broaden their comments to attack individuals on how they perform their duties in the Chair. That is not part of the motion and should not be included in any argument. I am very concerned about the member for Kalgoorlie's contribution to debate on the motion to dissent from the Acting Speaker's ruling. He should have constrained his comments to the ruling in question and not brought into question any other extraneous matter about the particular Acting Speaker.

MR J.C. KOBELKE (Nollamara - Leader of the House) [11.40 am]: I rise to speak against the motion to dissent from the Acting Speaker's ruling. This is a frivolous attempt to derail the debate and there is no substance whatsoever to the basis for dissent. The argument, as put by the member for Hillarys, was that somehow there was a lack of relevance in the member for Innaloo's contribution and that the Acting Speaker should have directed the member to talk to the amendment before the House. However, he gave no evidence for

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that. The point was then taken up by the member for Kalgoorlie who suggested that the Acting Speaker was biased. That is something that should not have been said; however, let us go to the facts of the matter.

The first point of order against the member for Innaloo was taken when he had been on his feet for less than a minute because the clock had not ticked over to the following minute. At that stage members opposite were seeking to say that his comments had been irrelevant when he had had very little time to enter into the issue. On the basis of the member for Kalgoorlie's comments a few minutes ago, it was totally baseless and quite improper to make any accusation of bias. There were no facts to support that claim, which indicates that this particular motion of dissent is not based on any facts whatsoever. The member for Innaloo was using an example, which was obviously important to him, of his son and an issue that had been raised earlier in the debate.

The issue of relevance, which is dealt with in Standing Order No. 94, is a matter of interpretation because it is not laid out in fine detail. Although the matter before the House is an amendment to the code of conduct, and the amendment relates to the duties of a member and to membership of political parties, the member quite rightly gave an example in which members in this very debate had not lived up to the standards that we are seeking to put in place. Those standards are touched on by paragraph (b) of the amendment before the House. Therefore, the member for Innaloo was able to speak about his particular example in a way that was relevant to the amendment before the House. The other point is that generally a bit of latitude is also given by the Speaker when it comes to rebuttal. Other members in the same debate have raised these very matters. Even if the member for Innaloo's example did not fit the context of the matter before the House - I believe it did - there is the right for some rebuttal because those very matters had been raised in this debate by other members.

Finally, I have taken points of order on this because the debate has ranged far and wide. However, I did not take a point of order when members on the other side raised examples in which they abused their speaking rights to attack people. However, they were examples of members failing to reach the standards set out in the code that we would like to see put in place and adhered to. They used those examples and then went off on a tangent. It seems to me that the Opposition is being particularly precious when it has, on numerous occasions, used examples that have ranged far and wide. However, when the member for Innaloo raised a particular example that is very special and personal to him, the Opposition wanted to close down his opportunity to raise those matters and rebut the allegations made by its members. Clearly, there is no basis for dissenting from the Acting Speaker's ruling.

MR R.F. JOHNSON (Hillarys) [11.44 am]: I will respond to the comments on the motion that I moved to dissent from the Acting Speaker's ruling, which is something that I did reluctantly. What the Leader of the House just said is not at all accurate. He quite rightly referred to comments made during the thrust of the main part of the motion, which may or may not have been acceptable to some members. However, they were referred to in the main part of the motion that deals with members' code of conduct. What the member for Innaloo put forward in his contribution bore no relationship to the amendment before the House. He referred to a breach of privilege. He could have used any opportunity, other than during debate on this amendment, to bring to the attention of the House a breach of privilege that he believes might have occurred, and the House would obviously deal with that.

The reason that I moved the motion of dissent this morning - Mr Speaker, you know that I have never done that previously, apart from one other occasion when you came into this House and overruled the previous Acting Speaker's ruling because it was clearly wrong - is that on at least three or four occasions members had raised a point of order that the member for Innaloo was not speaking to the amendment before the House - not for one second. I think he was on his feet for a total of about four, five or six minutes. The least I expected was that the Acting Speaker would accept that there was a point of order. Whether he did anything about it was up to him. However, the standing orders are before us, and they have been explained, particularly their relevance to amendments. When members are speaking to an amendment, they are bound by some tight constraints. Members are reminded all the time by either the person who occupies the Chair or a member in this House who raises a point of order that they are not speaking to the amendment. This clearly did not happen. All I wanted was for the Acting Speaker to rule that the point of order was correct, because there is no question that the point of order was correct. What the Acting Speaker did after that was up to him - or her, whoever was occupying the Chair. I suggest that in the past many Acting Speakers, and maybe even Speakers, have said, "Yes, there is a point of order, and I remind the member on his feet to keep his comments relevant to the motion", or to the amendment or whatever he is supposed to be speaking to. That is the very least I expected. If a member continues to speak in contravention of standing orders, it is up to the person in the Chair to do his job, and I am sure he will.

I have not reflected on the Chair this morning. I have been in this place long enough to know not to do that. However, I have also been in this place long enough to know that if I have a serious concern about a ruling of

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pendal

somebody who occupies the Chair, it must be brought to the attention of this House. If we are to have integrity in this House, we must live by our standing orders. That is the reason I moved the motion. As I said, much as I regret it, I still stand by the motion.

Question put and negatived.

Amendment to Motion, as Amended, Resumed

The SPEAKER: Before I give the call to the member for Innaloo, I point out to the House that I did not hear the ruling. It is important in all debates that we stick to the matter before the House. I do not know whether the previous Acting Speaker ruled on matters of privilege. However, if a person wishes to suggest that another member has breached privilege, there is a process by which that should be dealt with; that is, not in a general debate but by way of a motion that brings that to the attention of the House.

MR J.R. QUIGLEY (Innaloo) [11.48 am]: I was dealing with the putrid attack by the member for Kalgoorlie upon my son. I do not wish to occupy the time of the House and the Parliament for much longer, because I am sure, as I mentioned earlier, that the member's dear departed father, Jack, who was a member of the -

The SPEAKER: I call the members for Kalgoorlie and Nedlands to order for the first time.

Mr J.R. QUIGLEY: I am sure that he would feel ashamed that a progeny of his had mounted such a putrid argument in a Parliament of Australia. However, I do not intend to take any more of the Parliament's time, because I have said nothing in this Chamber of which I am ashamed or would refrain from saying outside on the steps of the Parliament. I will make a prediction: I believe this argument will become the subject of some public debate. I invite the member for Kalgoorlie to consult with the Clerk, because I am well aware of an advisory opinion published by the Clerk; that is, to go outside of the Parliament and even affirm what is in the *Hansard* can be, in itself, defamatory. I have nothing to be ashamed of in my conduct or that of my son, or for the manner in which I explained it. For the member to come in here and attack my family as he has done in this debate is absolutely disgraceful. I will not take it any further.

Amendment put and a division taken with the following result -

Ayes (17)

Mr C.J. Barnett	Mr J.H.D. Day	Mr R.F. Johnson	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mrs C.L. Edwardes	Mr P.D. Omodei	Mr A.D. Marshall (<i>Teller</i>)
Mr M.J. Birney	Mr J.P.D. Edwards	Mr P.G. Pendal	
Mr M.F. Board	Ms K. Hodson-Thomas	Mr T.K. Waldron	
Dr E. Constable	Mr M.G. House	Ms S.E. Walker	

Noes (25)

Mr P.W. Andrews	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr J.J.M. Bowler	Mr R.C. Kucera	Mr N.R. Marlborough	Mr P.B. Watson
Mr C.M. Brown	Mr F.M. Logan	Mrs C.A. Martin	Mr M.P. Whitely
Mr A.J. Dean	Ms A.J. MacTiernan	Mr M.P. Murray	Ms M.M. Quirk (<i>Teller</i>)
Mr J.B. D'Orazio	Mr J.A. McGinty	Mr A.P. O'Gorman	
Dr J.M. Edwards	Mr M. McGowan	Mr J.R. Quigley	
Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper	

Pairs

Mr J.L. Bradshaw	Dr G.I. Gallop
Mr B.K. Masters	Mr J.N. Hyde
Mr R.N. Sweetman	Mr D.A. Templeman
Mr B.J. Grylls	Mr A.J. Carpenter
Mr M.W. Trenorden	Mrs D.J. Guise
Mr R.A. Ainsworth	Ms J.A. Radisich

Amendment thus negatived.

Motion, as Amended, Resumed

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pendal

MR M.G. HOUSE (Stirling) [11.54 am]: I imagine that, before the Premier introduced this code of conduct to the Parliament, he had given it some thought, and that he believed there would be some advantage to his Government from introducing it. He would not have introduced it if he did not think that. I presume he had thought through the principles contained in the code of conduct fairly carefully, and that he expected the Parliament to pass this motion with very little debate and discussion. He would then be able to go to the public and announce that his Government had been the first to introduce a code of conduct, and as a consequence of that we would all now behave in a manner different from that in the past. However, nothing could be further from the truth if we consider the debate in the Parliament over the past two and a half days. The debate has already taken almost three days, and I suspect we will not get through it today. This has probably been one of the most divisive debates that I have heard since I have been in the Parliament. There has probably been more personal vitriol across the Chamber in this debate - which is supposed to be setting in place a code of conduct - than in any other debate that I have heard in some years, although one could argue with that, I guess. However, certainly on a point of principle - and a code of conduct is a point of principle - it has been a very divisive debate.

The reality is that the principles that are embodied in the proposed code of conduct are things that we can all agree with. The reality is also that all of those principles are already embodied in either the standing orders of the Parliament or the principles by which most of us live in any case. Therefore, rather than agree to something that should be very simple and that should not cause much dissent, the debate has degenerated into an opportunity to be divisive and raise personal issues, and there have been heated moments when people have said things in the Parliament that perhaps they would not say anywhere else. To that extent the debate has certainly not been what I could call a successful debate. On television we sometimes see incidents of young children who have done something wrong. We saw an incident a couple of days ago when some Aboriginal children stole a car and it resulted in a very unfortunate death. The public at large was up in arms about that incident, and the cry was that those children should have been at school and should have been behaving themselves, and their parents should have been taking greater responsibility for their kids. However, anyone who has read the debate in this Parliament in the past two and half days would have to say that we need our parents to look after us. It has been absolutely disgraceful that adult people can behave in the way in which we have behaved. By that I do not mean the cut and thrust of debate. I mean the personal abuse and insults that have been added to this debate and have caused it to degenerate. I am one of those who believes that the cut and thrust of debate on the floor of the Parliament is a good thing. We do not need to go into the street and fight with each other or take up guns to revolutionise our country. We can come into the Parliament and debate issues as hard as we like and we can disagree with each other as much as we like, but we can still go into the corridor and be friends, because we all have the same objective. However, in this debate we have become personal, divisive and abusive. It behoves us to reflect carefully on what we have done in this debate. In fact, if I were the Premier I would be inclined to withdraw this proposed code of conduct and give us the opportunity to start the debate again at a different time, because the debate that we have had will not do us or the public whom we serve any good at all.

I have been in this Parliament for some years. I have a great respect for the Parliament and for what it achieves, and for the people in it, of all political persuasions. I have had disagreements with many members, and that will continue, I am sure. However, at the end of the day the Parliament is a place that we can respect and honour and that serves the public well, provided we use it properly. The debate in the Parliament does not need to degenerate into personal abuse. The Parliament should not be used as a place in which we score points off each other. It should be a place in which we debate the issues as thoroughly and as hard as we want and examine them as much as we are able. I am interested, as is every other member, in providing good government for the people whom I represent. I urge all members to consider that as we work through the last hours of this debate.

MR J.C. KOBELKE (Nollamara - Leader of the House) [11.59 am]: I intended to wait until most members had spoken before I rose to speak, but as I am not the mover of the motion I do not have a right of reply. I will make some general comments and refer to a number of matters that have been raised. Other members who wish to speak will obviously have the opportunity to do so.

It is interesting that the debate on the establishment of a code of conduct for members of Parliament should be so perverse that it has become an opportunity for members to step outside one of those standards. I accept the general tenor of the contribution made by the member for Stirling. I thought what he said was very apt, but I totally disagree with a couple of things he said. The Premier never believed that this legislation would pass through the Parliament quickly; that is why it was left for debate until the third week of this sitting. There has been some ingenuousness displayed by members opposite in not committing themselves to this process. I reflect on the member for Stirling when he said that it should be pulled out and started again. I will go through the history in a moment. There has been ample opportunity in the past few months for members opposite to make positive, constructive comments on the code, but there has been none.

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pandal

Mr C.J. Barnett: This is a flawed process.

Mr J.C. KOBELKE: The Leader of the Opposition says that this is a flawed process. All members opposite want to do is chip, chip, chip. They have said nothing positive to help raise standards. The member for Stirling made some very positive comments.

Mr C.J. Barnett: Here you go again.

Mr J.C. KOBELKE: The Leader of the Opposition just wants to carp - chip, chip, chip, negative, negative, negative. He has said nothing positive that would add to a very good initiative by the Premier. All that opposition members want to do is chip away at it. There has been a perversity in this issue in that some members of this place - not just members of one side - have not behaved as well as they might have behaved in the debate on a code that seeks to improve the conduct of members. Most members have said they agree with the code; not too many have spoken to the reasons for that.

Ms S.E. Walker: I did.

Mr J.C. KOBELKE: The member for Nedlands wants a badge because she claims she said something positive. I leave that aside, because her claims often do not stack up to be true.

Members have special privileges in this Parliament and those privileges bring responsibilities with them. They have privileges when they receive information that others do not. Members must make sure that they use those privileges appropriately, not for self-gain or for the gain of one interest group. Members have responsibilities to make proper decisions and, in taking up those responsibilities, they must accept that people expect them to show that they have high standards. Members must be careful with their rights because they can malign other people. On one occasion I attacked a Liberal member of another place on the basis of evidence that came from the other side. Some months later, after the matter had been heard in court, I stood in this place and apologised for the things I had said because they were false and had been hurtful to the member. I took the opportunity to apologise for the things I had said because I had believed they were true when they were not. Members, therefore, are responsible for what they say in this place.

Clearly there is a very competitive element in this place. Members represent different interests and they want to pursue those interests. In pursuing those interests, members quite genuinely seek to get the upper hand so that they can win their argument. It is often hard to know when to draw the line between achieving a goal, a victory or a gain for oneself or one's side and putting down the other side. Therefore, from time to time members on both sides of Parliament step across the line; I certainly have. I have wished at times that I had given more thought to a matter and not been as vigorous as I had been in pursuing it and going beyond what I believe to be the most appropriate way to behave in those circumstances. As there is that competitive nature in this place, members must agree on some governance or parameters of control for the guidance of members on how to conduct themselves.

One member said that a code of conduct is just words. All our laws are just words. The words in the code will be useful if we can obtain a common understanding of their meaning and, therefore, the way in which members should act to conform to the code. Like the member for Stirling, I am a little disappointed that very few members have contributed to the meaning of the terms used or commented on how far they go. That is always an issue. Where is the line drawn? The code of conduct provides only guidance and support. It is not a law that lays down a hard-and-fast stance on particular issues. There is still a bit of grey. Through the code, we are trying to restrict the grey and make clear what should be the behaviour in a number of areas.

In trying to put down the code, some members mentioned that all these measures are already in place. That is not true. Some things within the code are not adequately covered elsewhere. The code contains provisions that are adequately covered elsewhere, such as the register of pecuniary interests. The code simply reiterates those.

Mr C.J. Barnett: Many things that could have been included in the code of conduct are not. You may think it trivial, but the dress code of members in the Chamber should be covered by the code.

Mr J.C. KOBELKE: The Leader of the Opposition again has a valid point. I will come to that. However, I repeat the point - I will go through the chronology in a moment - that the Leader of the Opposition did not make a positive suggestion about that before the debate commenced. He is only about political scoring. He is not about working as a Chamber to put in place a code of conduct that will be meaningful and useful and set standards for this place.

As I was saying, the norms for our behaviour are determined by a range of things, such as the standing orders and the established practices and expectations. Some of those are changing. Members have commented that the behaviour a few years ago was different from the behaviour now. It will be different again in a few years. That

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is part of the evolution and change within the Chamber. Some change is for the good and some, it will be agreed, is not. However, that is life. We have changed expectations and changed norms. The point of the code is to try to get some agreement about and definition of those norms so that we have a clearer expectation of what is acceptable behaviour. As I have indicated, without that we could go too far. The member for Roleystone used a very instructive example. It related to whether members should get involved in matters in which they have a pecuniary interest through shares. I will not go into the detail of that. The important point, which relates to the code of conduct, is that members have very different perspectives about what counts. For example, some people said that Bloffwitch had only a small number of shares and therefore his ownership of them was not an issue. The code states that the number of shares is not the issue. The issue is not simply about financial gain or how much financial gain there might be. People may use that to determine the importance of the issue. People might say that if the potential of a member influencing a minister or a Government is such that he makes a few hundred dollars out of it, it is irrelevant. However, it might be a big issue if the member were to make tens of thousands of dollars from giving advice. People make that judgment about the direct relationship between the member influencing or seeking to influence the decision and his pecuniary interest in the matter. However, the code goes well beyond that and relates to the public's perception of a member who is involved in a decision from which he is likely to benefit, even if by only a small amount. The code makes it clear to people that if a member has a pecuniary interest - even a small pecuniary interest - in a matter, he needs to disclose that he could possibly benefit when he speaks or gives advice about those areas. We have had debates about this on a number of occasions. As I said, people on both sides have tried to make political capital from it. That is part of the game. However, through the code we are making it very clear that if a member is likely to have some gain, pecuniary or otherwise, from a situation in which he is involved, he needs to disclose that. By putting down a set of words, we are trying to clarify that and get a more common understanding about what is meant by it. I think it will be useful guidance for what might be considered inappropriate behaviour.

Members opposite have said that many of the provisions in the code are not new, which I accept. However, putting those provisions all together in a code and adding a few extra bits to give guidance to members is new. The code is excellent, although it is not perfect. I am quite certain that in years to come it will be shown to be imperfect. Heated debate will take place in this Chamber and members will say that the code should have covered a particular situation or that the wording was not tight enough. I honestly believe that will happen. However, if we try to be totally prescriptive when we first introduce it, we will not have a workable code. This is an excellent starting point. It is a very good code to give guidance to members about what is acceptable behaviour.

I turn very briefly to the history of the development of the code. After listening to the contributions made by members opposite to this debate, I can only conclude that a number of them have no understanding of this issue. They have said that more consultation should have taken place. A different consultation process could have occurred; it could always be done better. However, those members have totally ignored how the code has been developed. In 1989 the Parliamentary Standards Committee recommended that a code of conduct be written. It is not a new concept. In 1996 recommendation No 159 of the third report of the Commission on Government was that a code of conduct be drafted. The then Government did not want to deal with it; it shoved it aside. When in opposition, the current Premier, Dr Geoff Gallop, made an election commitment that a Labor Government would proceed with it and give the Parliament an opportunity to establish a code of conduct. That commitment was made prior to the last election. On 14 March 2002 -

Mr C.J. Barnett: That is where you failed.

Mr J.C. KOBELKE: In what way?

Mr C.J. Barnett: It is fair enough for the now Premier to have made that election commitment. You just said that the election commitment was for the Parliament to establish a code, which would have been a proper election commitment to make. If the Parliament had established this code, it would have a substantive status within this Parliament now and into the future.

Mr J.C. KOBELKE: I like when the Leader of the Opposition speaks because he is so bitter, nitpicking and politically undermining that he cannot deal with the issue. We have spent a whole week debating it, yet he says the Parliament is not doing it.

On 14 March 2002 the Premier made a statement and tabled a draft code of conduct to give a lead as to how it could be done. The Procedure and Privileges Committee considered the draft code. During this debate, at least one member opposite said all that work was done during the term of the previous Government - yet the Opposition has said that the Government has not consulted with anyone. It is absolute dribble to say that the Government has not made any attempt to consult. There has been a total lack of positive feedback from

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members opposite. There has not been a lack of opportunity to be involved in the development of this code. As I said, the Premier tabled a draft code to start the discussions. The draft code went to the Procedure and Privileges Committee. Anyone could have made a submission to that committee, which tabled its report on 27 February 2003. The Premier and the Government gave further consideration to that report and on 24 June the Premier gave notice of this motion.

Mr T.K. Waldron: I made the point earlier that in a lot of cases the value of codes of conduct is the process that those involved go through to draw it up. It gives them ownership. By going through the process, you actually refocus on what you should be doing. As a newer member of Parliament, was I meant to go to the privileges committee? How was I meant to become involved? I would like to know. I do not feel any ownership of the code because I have not been involved in it.

Mr J.C. KOBELKE: On 14 March 2002 the Premier tabled it and made a statement that the Government would like to put in place a code of conduct. All members had an opportunity to become involved with it.

Mr T.K. Waldron: How was I meant to do that?

Mr J.C. KOBELKE: It was tabled in the House. The matter was then taken up by the Procedure and Privileges Committee of this House. People could have made a submission to it.

Mr T.K. Waldron: A personal submission?

Mr J.C. KOBELKE: Yes.

Mr T.K. Waldron: Codes of conduct are successful when the people involved work out the code of conduct together. That is all this is.

Mr J.C. KOBELKE: That is what we have spent a week debating.

Mr T.K. Waldron: No. The code of conduct has been put before us. To have a successful code of conduct you need to establish it with the people involved. I have done it in previous roles and it has worked really well. I said this in my speech, but once the actual code of conduct is reached, the problem is that it tends to go on the wall and people refer to it -

Mr J.C. KOBELKE: I understand that, but I have limited time. When the member developed that code, how many people were involved? Were there a dozen people sitting around a table? Who did it?

Mr T.K. Waldron: We had forums and we probably had 50 or 60 people from the football club or the football league, which was developing the code. We did not have everyone.

Mr J.C. KOBELKE: Did the member have a committee to help polish the code, or did one person do it?

Mr T.K. Waldron: We agreed on what should go in the code. The code was then circulated. If there were any complaints, we came back and met. That is how we did it. I am genuine in what I am saying.

Mr J.C. KOBELKE: Reports from 1989 or earlier recommended a code of conduct. There are codes of conduct in other Parliaments. The Premier put a draft code to the Parliament in 2002. The Procedure and Privileges Committee took it away and worked on it. That was known to everyone here. Members could have been involved at that stage. The Premier gave notice of this motion in June - two months ago. If anyone was serious about the matter - I understand that members are busy and it can slip by them - they could have put amendments on the Notice Paper. Not one amendment was signalled. Amendments from members opposite were handwritten and put in the wrong order, so we had to suspend standing orders to deal with them. This is a matter to be determined by the House. We knew it would take the best part of a week and that is why this week has been made available to debate the matter. We have given members that opportunity. As other members have commented, the quality of that debate has left something to be desired.

The Premier was attacked for taking the lead on this issue and then he was attacked for not being involved in the debate. People can contribute positively to a code of conduct. However, members of the Liberal Party do not want a code of conduct and they know they cannot step outside it because they have no arguments against it. They did absolutely nothing about it for the eight years they were in government. When the Premier takes the lead, puts a code of conduct on the table and says let us go through the process, all they want to do is carp and criticise. They want to trump up all these ideas about why it is not good enough. There has been talk about its being wishy-washy and flim-flam. They all agree with the code of conduct, but want to find reasons they can criticise it and attack it without saying it is bad. That is what we have heard from the majority of speakers opposite. A number of members from the Liberal and National Parties have made positive contributions. They have made very definite comments and have said that they want a code of conduct.

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Mr T.K. Waldron: All I am saying is that you would have had a lot more positiveness if we had gone through a better process.

Mr J.C. KOBELKE: The point is that members can attack the process and simply make that argument, which has been the main argument from the Liberal Party -

Mr T.K. Waldron: It is a fair one.

Mr J.C. KOBELKE: It is not. They said that the code is a good thing and then spent all their time using it as a basis either for political grandstanding and attacking people personally or to attack the process. Clearly their words say what they really mean; that is, they do not want a code put in place. Maybe members do not want a code because they do not want to be confined by it. We have heard examples in which members have been involved in decisions that clearly were for personal gain or their friends' gain and have done things that have been seen publicly as wrong, and they do not want a code that would constrain that. That might be why many Liberal members do not want a code. I do not know, but they certainly do not want one. It might simply be that they do not want a code in place because the Premier, having taken the initiative, will get the kudos. A number of members have said that. The only thing on their mind is to stop the code because Premier Gallop is doing a good job and he should not get any kudos. That is a nonsense argument. If members believe that a code of conduct is a good thing, and the Premier has taken the lead, they must accept that he will get some kudos for it. However, a number of members opposite want to damn it because they do not want the Premier to get any kudos for putting in place something that is positive for this Parliament. Liberal members have put forward that nonsense debate on the whole issue. I accept that consultation could always be carried out better, but if that is the argument, members opposite are really saying that they do not want the code of conduct.

DR E. CONSTABLE (Churchlands) [12.20 pm]: I support the motion for the code of conduct and I will be voting for it, but I begin by taking up where the previous speaker left off; that is, commenting on the process. Over the past year I have been involved with two not-for-profit organisations which have developed codes of conduct, so I have been through the process in other places. I believe a code of conduct must be based on things like a mission statement - if there is one in the organisation - a set of values and objectives of the organisation. People must start with that and build a code of conduct from that point. Codes of conduct are about rules of ethics and rules of behaviour for an organisation; more than that, they are based on a common set of values. I will come back to that issue in a moment. I am not sure that here there is a common set of values, and there was an example of that yesterday which was quite legitimately debated.

What I learnt through being involved in the development of those codes was that they work best when they come from within the organisation, that they grow from the bottom up and are not imposed from outside or from the top down. If everyone is involved in the development of a code of conduct, they have some ownership of it and the code of conduct is more likely to be adhered to by those people. When new members come into the organisation, part of their induction should be to familiarise themselves with the code of conduct, because things such as confidentiality are important in organisations. The best process therefore is for all members to be involved.

Despite the comments by the Leader of the House - I am sure he is confident in what he said about the process - I, as a member of this Parliament and this House, do not feel as though I had an opportunity to be involved. I believe there were some failures in the process. One of the failures is that the Premier introduced the code of conduct. I am sure he did that with the best will in the world. I am not commenting on that, but I believe it would have been much better for the code to have come through the Procedure and Privileges Committee and perhaps introduced by the Speaker or the chairperson of the committee who is the Deputy Speaker. There would then have been a lot more effort to involve all of us in the process of developing the sections of the code of conduct, so that we all felt that we were part of it. I feel as though it has been imposed upon me. I believe some things have been left out.

Mr M.P. Whitely: Were you aware that we were going to develop a code of conduct?

Dr E. CONSTABLE: I have a vague memory of it being foreshadowed and the Premier's draft. I have no memory of being informed by the Procedure and Privileges Committee.

Mr M.P. Whitely interjected.

Dr E. CONSTABLE: I do not think that is an issue for this debate. The member can nitpick, but I am giving my view of where we are. I do not think that it is appropriate to have a conversation on that.

A code of conduct must belong to all of us because it is about the responsibility and accountability of the members of this Parliament. If we do not have ownership of it, how can we feel part of a code of conduct? The

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code of conduct was quite properly suggested by the Premier, and I have no problem with that. It was quite properly looked at by the Procedure and Privileges Committee. However, somewhere along the way members were lost in the process. I certainly feel that as an individual member. I would have much preferred that it come through the processes of the House rather than being imposed by the senior member of the Executive of government. It would have worked better for all of us had the process gone the way I suggested.

Within an hour of the Premier moving the motion, I went to the library to see what had happened in other jurisdictions in Australia. The first one I looked at, and the only one I looked at in the end, was that of New South Wales. What struck me from the very beginning was that much of what we have before us in the motion is lifted directly from the New South Wales code. In one sense I suppose it is all right because we probably have common issues that should be in a code, but simply to lift it is a pretty lazy way of putting a code together. I have marked lines on the motion in the Notice Paper, and exactly 50 per cent of the lines in the code are lifted directly from another code. I am not sure that a great deal of work went into thinking through this proposed code.

Mr C.J. Barnett: It would be deemed to be plagiarism in academic circles.

Dr E. CONSTABLE: It would, but it has not been recognised to be the case. It is an interesting point to make in passing.

I return to the basic question: do we need a code of conduct? I discovered in part of my research that throughout the world, certainly in the western world, a trend has been evident towards codifying guidelines for members of Parliament and for staff of members of Parliament, which is an important part of this matter. It is one thing for members of Parliament to have a code of conduct, but we should look at a code of conduct for staff of members of Parliament, and certainly for staff of ministerial offices. Such officers are part of what we do. That aspect might come out of this debate to be considered at another time.

The best paper I found on this issue was from the European Centre for Parliamentary Research and Documentation. The paper, which is titled "Parliamentary Codes of Conduct in Europe", was written by Veronica Williams and published in November 2001. This was a review of the movement towards codes of conduct in Parliaments throughout Europe. An interesting issue is the continuum of the methods in different jurisdictions throughout Europe to codify guidelines for behaviour. For instance, the United Kingdom has an Act of Parliament specifically covering members' behaviour. One member said in this debate that this area could not be legislated, but the UK has an Act of Parliament that is a code of conduct. The Act clearly lays down the obligations and behavioural standards for members of that Parliament. I place the proposed code before us today somewhere in the middle of that continuum; that is, it is to be established by way of motion voted upon to express the view of the House, but it would not have any real force. It is unlike one end of the continuum in the UK where an Act is in force. At the other end of the continuum, countries like France deliberately have nothing in writing in terms of a code, and the behaviour of members is monitored through existing legislation. I refer to matters like bribery and corruption, upon which members are judged by existing legislation.

I return to the issue of a common set of values. For a code to work well, it must be based on a common set of values that all members of an organisation believe in or adhere to. That is where the first problem lies in having a code of conduct for members of Parliament. One cannot assume that a common set of values exists. Members yesterday and today have spoken about crossing the floor. The member for Cockburn has the right to have as one of his values upon which he bases his membership of his party and behaviour that he will not cross the floor. I presume that members of the Liberal and National Parties do not have that as part of their set of values. The Greens (WA) are free to cross the floor if they wish. As an Independent, I value that I can vote freely on any matter that comes before Parliament. Members of this place do not have a common set of values; therefore, it is difficult to develop a code of conduct. The debate on the previous amendment to the motion indicated that to be the case.

I do not wish to spend too much time on Veronica Williams' paper. However, she draws attention to four areas. Page 7 of her paper reads -

In general terms, the effect of codification is felt in four different areas:

- a. in a benefit to society in general, by enhancing the rule of law
- b. in the relationship between Members and their electorate
- c. in the relationship of Members with their peers

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d. as a yardstick for Members themselves.

I refer to the third point. On page 8 of the paper, she refers to that point as collegiality. I will quote her directly because it is very pertinent to much of what has been said in the past three days. She states -

The existence and operation of a set of ethical rules is also beneficial for the inter-peers relationship among elected Members of Parliament irrespective of their party allegiance or political platform.

In spite of their political differences, a sense of **collegiality and tolerance** of different political positions should reign in the working environment among peers. Ethical standards form the common denominator for all Members of Parliament, whatever the size of the group, their political platform or their legislative interests. A balanced and diversity-respecting Parliament benefits the society it reflects and represents.

I foreshadow an amendment to the motion that draws very heavily on those words, which is contained in the paper written by Veronica Williams.

On page 12 of the report she refers to six guiding principles. I will run through them because they are not all covered in our code of conduct. The first is independence. That refers to the independence of each member of Parliament to act responsibly, especially when representing constituents. Another guiding principle is non-discrimination. The third is transparency. That element is not reflected in our code. As she writes, transparency refers to giving citizens confidence in having as much knowledge as possible about the activities of government and members of Parliament. The fourth is rules against corruption. That is dealt with in our code. Conflicts of interest and declarations of financial interests are also dealt with in our code. She writes about a range of other principles and gives some examples including integrity, honesty, and due respect for the State and public administration. The United Kingdom Act codifies the notion of leadership. It is not an exclusive list but a number of qualities like that are found in similar codes, certainly in the European experience.

I endorse very strongly the comments made by the member for Stirling when he made his short speech earlier. He discussed what has happened in this Chamber in the past few days. He talked about the vitriol and divisiveness and personal attacks. It is very concerning. It is the sort of thing that constituents comment about to members from time to time. I often find myself defending what happens in this place and our system. The member for Stirling touched on it. We have the most remarkable system that a person can imagine. Once every four years, electors of this State have the opportunity to elect 57 members to this place. When electors talk to me about behaviour I say that they should expect differences of opinion and heated debate. They should want that because members represent a large and diverse State. However, people do not want the sort of thing that happened here yesterday. Personal comments were made; they were vile and disrespectful of individual members and this institution.

Amendment to Motion, as Amended

Dr E. CONSTABLE: I move -

To insert after section (11) the following -

(12) Parliamentary Behaviour and Tolerance

- (a) It is recognised that a balanced and diversity-respecting Parliament benefits the society it reflects and represents. A sense of tolerance and respect of different political positions should direct the working environment in the Parliament.
- (b) Members must apply high standards of behaviour and consciously avoid personal abuse and denigration of parliamentary colleagues.

MR P.G. PENDAL (South Perth) [12.35 pm]: I support the amendment moved by the member for Churchlands. When the original motion is put, I am not sure that I will want to vote in favour of it per se. Why do I say that? The original motion has all the hallmarks of something that was cobbled together without any real coherent philosophy and under circumstances that are largely meant to convey that something is being done when in fact it will be business as usual. To that extent the proposed code of conduct is a rather superficial document, albeit some very fine sentiments have been lifted from other documents around the world, including those associated with European Parliament.

It is somewhat ironic that a code of conduct, which is not enforceable, tells me that I cannot engage in bribery. I already know that. If any member of this House does not know that, I suggest he or she should never have been elected in the first place. I will dwell for a moment on the irony of the fact that I am being told that I may not

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bribe someone - I think that is in section (4). The code of conduct is just an expression of views. One can be prosecuted for bribery under certain statutes, and it is beyond me why it should be included in a code of conduct in the first place. I merely use that as my reference point for my view that the whole issue is fairly superficial and something that has been cobbled together for the sake of giving an appearance that something is being done.

I want to talk about the way in which this place is presided over. I want to do that in a serious way, and I will not reflect on any individual Presiding Officer, because I can imagine what a difficult job it must be from time to time. I remind the House that I think the code of conduct is to be found in the standing orders at the moment. It can be found at Standing Order Nos 92, 95, 96 and 98, and there may well be others. For a long time Standing Order No 92 has stated -

Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer -

This next bit is the important part for us -

or members of the Assembly or the Council are disorderly other than by substantive motion.

This is like much of what is contained in the standing orders - it is the combined wisdom and experience drawn over many, many decades, from not only other Parliaments and the experiences of the House of Commons originally, but also simple commonsense. That is why I think we already have a code of conduct, and it starts at Standing Order No 92.

This begs the question of how words and phrases have been used - ironically - during the course of this debate, because it escapes my capacity to comprehend it. You and other members know, Mr Acting Speaker (Mr Andrews), that, for example, yesterday a member was called scum. The acting Presiding Officer in the Chair at the time is one of the most responsible and decent people in the Chamber, who conducts himself outside the Chamber in a way that does him and I am sure his party credit. Nevertheless, it was beyond my understanding how that acting Presiding Officer could allow that word to go unchallenged. He effectively said at the time, "We have heard similar imputations and I am not going to ask the member to withdraw." I suggest that the benchmark has been lowered by that alone. Are we seriously saying that, with impunity and under any circumstances, I can now call anyone scum without being brought to heel? Yesterday, I interjected on the Speaker with perfectly acceptable words; however, the fact that I interjected on the Speaker was not acceptable. Quite properly, he called me to order. I find it perfectly acceptable that a member is called to order because he is seen to be challenging the Speaker. However, as the person who interjected, I did not use any language of the kind to which I just referred, which was allowed to go through to the keeper earlier that day.

What am I saying? I am saying that we do not need a code of conduct. We need enforcement of the existing standing orders. To the extent that I have affronted people in the past, I accept responsibility for my part, as anyone should. However, I repeat my primary contention that some members of this Chamber use language that I do not condone but which, worse than that, is effectively condoned by the Chair. Therefore, the challenge is not to enforce a code of conduct, but for the Speaker and Acting Speakers to perhaps call a conference outside this Chamber and even set up a jury of outside people and ask them to test those Presiding Officers. Do they think it is acceptable that parliamentarians should be allowed to call members of this House scum? I would be very surprised if one person of reasonable standards of behaviour in our community would say that was acceptable. If some form of outside jury were asked to sit in with the Speaker and his Acting Speakers, they all might find a real sense of empowerment. The Presiding Officers may well come back into this Chamber and say that the rules will change to the extent that Standing Order No 92 and a couple of the other standing orders in the 1990s will be enforced in a way that we have let go recently. In the end, the person who occupies the Chair in this place, and probably next to that person the Premier of the day - whether it be the member for Victoria Park or anyone else - are the two pivotal people who have the moral authority to say what is and is not acceptable. If the idea of calling in some outside jury-type help is not accepted, perhaps a yardstick could be what remarks you would allow, Mr Acting Speaker, at a barbecue in your backyard on a Sunday afternoon when your wife and children were present. I do not think you would regard it as acceptable if some recalcitrant neighbour stuck his head over your fence and used some of the words that the Presiding Officers have allowed in this Chamber. I do not think what was said yesterday by the Minister for Planning and Infrastructure would have been acceptable to you, Mr Acting Speaker, if someone had said that over the back fence at your family barbecue. If it is not acceptable in a circumstance in which a member is surrounded by his loved ones - the people whom he respects and who, in return, give him respect - why should we accept a different yardstick in this place? I agree with the member for Stirling who a few minutes ago said that this was not a question of eliminating robust and volatile debate. The last thing we want is for this place to become so sterile that passions are not brought to the surface and members do not get the chance to vigorously put their views. However, that is not the point of the member

Dr Janet Woollard; Mr Mike Board; Acting Speaker; Mr Paul Omodei; Mr John Quigley; Mr Rob Johnson; Mr John Kobelke; Ms Alannah MacTiernan; Mr Matt Birney; Speaker; Mr Monty House; Dr Elizabeth Constable; Mr Phillip Pendal

for Stirling and neither is it mine. Standing Order No 92 is the starting point for this debate, not this silly superficial bit of nonsense before us.

Let me dwell for a moment on some of the things that have crept into this place during my time that do not represent this notion that somehow or other there used to be a golden age of good behaviour. That continues to be said even today. People tell me that this sort of thing would have never happened in honest John Tonkin's day or when dear old Dave Brand or Sir John Forrest were around. Things were just as rough-and-tumble when those people were in Parliament. I am involved in work to do with parliamentary history and I must endure reading hundreds of years of parliamentary debates. Basically, things were certainly as robust then as they are today. However, things have slipped over the past couple of years and I will provide some examples. My first example is that on a number of occasions the Presiding Officers have not pulled to order members who walk about when the Presiding Officer is on his or her feet. I do not know whether that comes under standing orders or whether it is merely a convention, but when the Presiding Officer is on his or her feet members should not walk around the Chamber, because the Presiding Officer is imparting something to the Chamber over which he or she presides - it is an office to which that person has been elected. Members take no notice of that when they should. Secondly, I have noticed that constant references are now being made about the absence of members from the Chamber. Even when I became a member of Parliament that was sacrosanct. If someone was absent, a member did not say that person was absent and why, because probably at that very moment the member was out somewhere doing something that tomorrow morning that member would want to do. I hear the government Whip and the member for Albany agree. For instance, tomorrow morning the member for Albany might want to be present at a school in his electorate because it is particularly important and, therefore, he has been given a pair. In the past, no-one would have questioned the reason for his absence. However, it has got worse. The other day I heard a reference to someone being absent from the Chamber, but, worse still, the statement was made that he was probably in the parliamentary bar. That goes in the permanent record. It is a vile thing to say and it is vile to take advantage -

Ms A.J. MacTiernan interjected.

The ACTING SPEAKER: Order, members!

Mr P.G. PENDAL: No, I do not want to hear it. A member is absent from the Chamber usually for good reason. I have never known a person to be absent from the Chamber other than for good reasons. For example, members might not be in the building because they are doing something special: a minister might be at an interstate ministerial conference and cannot be in two places at once; or a member has asked for special permission to fly to Albany, Bunbury or Karratha to attend a particularly important school function. On the other hand, a member might be in none of those places. He might be in the library doing some work for the debate that will follow this rather futile exercise of a debate, or he might be in his office interviewing a constituent. However, whatever the reason may be, the convention has been that we do not take advantage of a member's absence to suggest that he or she is disinterested in the affairs of the Chamber.

Maybe the Speaker, the Deputy Speaker and the Acting Speakers should get their heads together and ask what are some of these things that we are in danger of losing and that we think might be retrieved, not because it is just nice or old-fashioned to have good manners, but because it is worthwhile to do those things.

Debate interrupted, pursuant to standing orders.

[Continued on page 10682.]