

YALLINGUP FORESHORE LAND BILL 2002
VOLUNTEERS (PROTECTION FROM LIABILITY) BILL 2002
HOME BUILDING CONTRACTS AMENDMENT BILL 2002

Council's Message - Consideration

Message from the Council now considered notifying that it had considered Assembly messages Nos 3 and 4 relating to the Yallingup Foreshore Land Bill 2002, the Volunteers (Protection from Liability) Bill 2002 and the Home Building Contracts Amendment Bill 2002, and inviting the Assembly by return message to state that it had passed the Bills and stating that, on receipt of such message, the Council would deal with those Bills appropriately.

Motion

MR J.C. KOBELKE (Nollamara - Leader of the House) [5.46 pm]: I move -

That the following message be sent to the Legislative Council -

In response to Legislative Council message No 8, regarding the Yallingup Foreshore Land Bill 2002, the Volunteers (Protection from Liability) Bill 2002 and the Home Building Contracts Amendment Bill 2002, the Legislative Assembly advises that it has passed the Bills.

This has been a matter of some contention between the two Houses and even within this Chamber. Without recounting the matters that have already been debated at some length, there is an issue about where these Bills currently rest, given the prorogation of the Parliament at the end of the last session. The fact is that all three Bills were properly passed by this Chamber. We have the power to reinstate Bills after prorogation. This might be seen, in part, as doing that. I believe it is clear from the message to which we are responding that the Legislative Council needs to be advised in a clear and simple form that these Bills were passed by the Assembly, and the Council has undertaken that it will then deal with them appropriately.

A range of other matters will possibly be addressed in a further message, which has been passed by the other place and which I understand will soon be delivered to this place. It will be appropriate that we also consider those other issues. My point of view is clear: I do not wish to confuse this message, which seeks to expedite the establishment of those Bills in the other place, with the other matters, which we will deal with in another message, that relate to the appropriateness of the matter and how it may or may not have been dealt with. It may take more than a little time to enter into those debates, and I do not want any procedure to delay these Bills being entered into the record in the other place and therefore being given some priority in the other Chamber. We are very keen that, in particular, the Volunteers (Protection from Liability) Bill and the Home Building Contracts Amendment Bill, for which I personally have responsibility, proceed fairly quickly, because they involve important matters and there is some urgency to them. That is the reason that I am strongly of the view that we should deal with this one message in a simple form by return message to resolve that part of the matter. The other parts of the matter can be left to another time, and I am sure that we will also debate those in the context of the procedures surrounding the transmittal matters relating to prorogation. I seek the support of all members in having this message sent to the other place so that these three Bills can be dealt with expeditiously there.

MR R.F. JOHNSON (Hillarys) [5.51 pm]: I am a little disappointed that we did not receive the second message at the same time as we received the first message. I understand that it has come from the other place to this House. I would have thought that it would be read in the Chamber at the earliest opportunity. I realise that the second message may be slightly embarrassing for the Government. The Government should take it on the chin and have both messages in the Chamber at the same time. However, that is not the case; we are discussing only one message at the moment, so we are limited to that. I put on record that it is a great shame that both these messages have not been read at the same time, which would enable us to respond to both of them.

We do not want to delay the Volunteers (Protection from Liability) Bill 2002 and the Home Building Contracts Amendment Bill 2002 for a second longer than we must; in fact, we do not want to delay them at all. We desperately want to help groups and businesses as quickly as possible. That is why we agreed to sit the extra time towards the end of the last session and came in on a Friday, which was most unusual. It was the first time that I can remember sitting on a Friday. That shows the commitment we have to helping these Bills through the Parliament.

The Leader of the House has quite rightly said that these Bills were passed by this House. They were passed on the last sitting day prior to the prorogation of Parliament. That is a fact that one cannot deny for a minute. We would not say anything contrary to the fact that this House passed those Bills during the last session. However, my concern, and that of some of my colleagues, is whether a challenge could be mounted at some stage, because of the difference of opinion between this House and the other place over the legality and the like of these Bills.

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We do not want to see anybody put in that position at a later stage. We do not want to take the risk. I repeat on behalf of the Opposition that, if the Government wishes to completely avert any possibility of that, I will give the Leader of the House an assurance that, if those two Bills are brought on, we will pass them both in an hour. There could then be no challenge from someone at a later date that they had not been properly passed by this House and the other place in the normal way under the Constitution Acts Amendment Act. I am not a lawyer or an expert on the Constitution, but I have a concern that there has been a difference of opinion between this House and the other place.

The other House believes that, as a result of the Bills not being read a first time in that House, they were not introduced into that House. As has been said many times, the Bills seem to have disappeared into a black hole between the two Houses. I do not know about the legalities of that, but if the Leader of the House wishes to avoid any possible future risk to the people who need the cover that this legislation will provide, why is he not prepared to reintroduce the Bills so that we may pass them both in an hour? I give the Leader of the House a guarantee that we will pass them both in an hour. There could then be no doubt whatsoever at a future date that these Bills were passed by this House and went to the other place in the way that they should have done.

I will not labour the point. I make it clear that this gesture of goodwill from this side of the House to the Leader of the House comes with the best intent and is in the best interests of those who will be affected by these Bills and who are looking to this legislation to assist them in their voluntary work, their businesses and their home building - areas in which we know there are enormous problems. I am sure that the Leader of the House will not take the route that I suggested of spending half an hour on each Bill to pass them through all stages so that they can then go to the other place. I am concerned that the Leader of the House will not take that route, because I wish to remove any possibility that, at some later stage, somebody may challenge in a court of law whether the Bills were passed properly through the normal constitutional processes of both Houses of Parliament.

Obviously the Opposition will not delay this matter. I have been speaking for about five minutes and I do not intend to talk for any longer. We want these Bills to go to the other place. We would prefer that they go there in the way I have suggested, but the Leader of the House, who speaks on behalf of the Government, is not prepared to accept the offer.

Several members interjected.

Mr R.F. JOHNSON: The Leader of the House should speak to his members. If they interject on me, I will keep talking.

Mr J.C. Kobelke: You do not have to create interjections to make a statement.

Mr R.F. JOHNSON: They just called me a robot, which is most unflattering.

The ACTING SPEAKER (Mr A.J. Dean): The member for Hillarys will address the Chair.

Several members interjected.

The ACTING SPEAKER: Order, members!

Mr R.F. JOHNSON: I appreciate that, Mr Acting Speaker.

The message will be dealt with, and we will not delay the process. However, if we had not put on the record our concerns - the Government should listen to them, but obviously it will not - we would not be doing our job properly. We have done our job properly by putting our concerns on the record. I am sure that my colleague, the Deputy Leader of the Opposition, will have some comments to make because he has handled, and is handling, the legislation through this House.

MR D.F. BARRON-SULLIVAN (Mitchell - Deputy Leader of the Opposition) [5.57 pm]: There are two requirements with this legislation. The first is to get the two most important Bills, the Volunteers (Protection from Liability) Bill 2002 and the Home Building Contracts Amendment Bill 2002, through this Chamber as quickly as possible. As our manager of business in this House has indicated, whatever happens to this matter it will be dealt with in this Chamber today, barring a natural disaster. We want both these pieces of legislation through both Houses of Parliament as quickly as possible. I am sure that the Leader of the House will agree that at every stage we have done our best to expedite the passage of both these pieces of legislation. We have not spoken at great length in this Chamber, filibustered or done anything like that; we have done the opposite, even to the point of insisting on coming back to deal with the legislation so that it would not be delayed as a result of the prorogation of Parliament.

We have some serious concerns about the way in which the Bills are being dealt with. Our advice is that by sending a message, as is proposed in this motion, through a substantive motion of this nature to the upper House, the upper House most likely will attend to this legislation in the appropriate way. I am mindful of the fact that a recent Supreme Court case that ended in April concerned the validity of legislation as it was dealt with in the

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upper House of this Parliament. I realise that I am not comparing apples with apples, but the point I am trying to make is that if there is any doubt, or any room for any doubt, about the validity of the manner in which this legislation is being dealt with, it would be better to deal with it in this Chamber in a way that will ensure that it is 100 per cent watertight.

The Home Building Contracts Amendment Bill 2002 concerns the livelihoods of hundreds of builders in this State. It deals with a considerable amount of money. Multimillion dollar underwriting arrangements are already being determined. The consequences of the legislation are very serious. It is, therefore, beholden on us to make sure that whatever happens with this legislation when it is passed by each Chamber, it is handled in such a way that ensures that in the future it is not exposed to any technical or legal problems. I believe the suggestion put forward by the manager of opposition business makes a great deal of sense; that is, we should merely reintroduce the legislation. We do not have to debate it. It can be introduced and go to the vote; it can have a second reading and go to the vote. In that way we would know for sure that the legislation was valid.

Sitting suspended from 6.00 to 7.00 pm

Mr D.F. BARRON-SULLIVAN: Before the dinner break, I was pointing out, to particularly the Leader of the House, that although the Liberal Party is very keen for the volunteers legislation and the home building contracts legislation to pass through both Houses as quickly as possible, it is also mindful of the need to safeguard those Bills as much as possible against any potential that they might be challenged or found to be invalid. For that reason, the leader of opposition business in this House suggested that the two Bills be reintroduced in this Chamber. We have given a solemn undertaking that if that were to happen, we would not prevent them from going through this House in anything more than an hour. Such a process would mean that the Bills would be 100 per cent watertight. They would go through the normal processes in accordance with our standing orders before being transferred to the upper House and could not be subject to any questions about their validity. I have concerns about the way we are doing things. On the face of it, everything seems fine. We are telling the upper House that yes, the Bills have been passed and should be sent to the upper House. I demonstrate my point about how shaky the arrangement could possibly be. I would bet Sydney Harbour Bridge to a brick that if the motion we are dealing with now was amended ever so slightly to indicate that the Bills were passed in the last session, the upper House would not accept the message and would send another back. In effect, we are saying that we passed the Bills but not that we passed them in the last session, because otherwise the upper House would reject the message, and we would be back to square one. I am still fairly new to parliamentary procedure but it seems a very strange way of doing things when we could simply reintroduce the legislation and go through the first, second and third reading stages within an hour or so. Essentially, we are sending a message to the upper House saying that we passed the Bills but we are not telling it that we passed them in the last session rather than in this session. We know there is every possibility that if we told the upper House that we passed the Bills in the last session and not the current one, it would return the Bills to this House without considering them. As a legal layman, I am concerned that we are leaving things open for some degree of uncertainty. I hope that the Leader of the House can give some explanation when closing debate on this motion why the Government did not allow us to reintroduce the legislation in the normal way. He might not have wanted to put up with the embarrassment. There is a degree of embarrassment in having to reintroduce legislation that has been lost, as has happened with these Bills. The reality is that that could be what it takes to have a cast-iron guarantee that the Bills cannot be challenged.

I have said previously that I do not consider the Yallingup Foreshore Land Bill to have any sort of priority. I have made my points of view on that quite clear in this Chamber. However, we are dealing with two other Bills that have significant importance for sections of our community: the Volunteers (Protection from Liability) Bill and the Home Building Contracts Amendment Bill. The Home Building Contracts Amendment Bill was passed by this Chamber on 28 June. For three months that Bill has languished. Nothing has happened. I could not look the builders straight in the eye if something else happened to set this legislation back again. I cannot understand why we are dealing with these Bills in this way when, for the same period of time, we could reintroduce the legislation and get it into the upper House.

[Quorum formed.]

Mr D.F. BARRON-SULLIVAN: The point I was making is very simple. It has been three months since this House passed the Home Building Contracts Amendment Bill. Hundreds of builders around the State are clamouring for some resolution to their problems with home indemnity insurance. It defies any sort of comprehension that we are using this process to send this and the volunteers Bill to the upper House, which could either declare them invalid or send them back to the Legislative Assembly. Members might recall that the Liberal Party suggested that the volunteers legislation stipulate that it will be effective from the time it passed through this Chamber rather than the time of proclamation. Again, it has been around three months since that

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legislation passed through this Chamber. We are all hoping that an accident or event does not happen that puts someone in an invidious situation that could have been averted if an earlier date of effect had been incorporated into the legislation. We do not want to delay this legislation; however, we want to ensure the highest possible degree of certainty is attached to these Bills before they are sent to the upper House.

We know already that there will be a further delay with the Home Building Contracts Amendment Bill because it was incomplete when it was introduced into this Chamber. During debate on the legislation, the minister conceded that the Government needed to amend the Bill to provide the mutual fund with an underwriting facility. We will see further amendment to that legislation in due course. If that amendment has been prepared and the legislation were reintroduced in the way that we on this side have suggested, the amendment could be slipped in quite quickly and effectively. The amended Bill could be passed in this Chamber and sent to the upper House. That would prevent the need for any future amendment, which of course would further delay the legislation.

The other point raised by the leader of opposition business in this House is that we should perhaps have dealt cognately with message No 8 and another message that is due to come to this House on a related matter.

Mr R.F. Johnson: It must be lost in the black hole at the moment. It has left the other place but has not been read in this place yet.

Mr D.F. BARRON-SULLIVAN: There seems to be a big black hole in the corridor between the two Chambers.

Mr R.F. Johnson: I suggest that it is a bit of a fault with government members.

Mr D.F. BARRON-SULLIVAN: I suggest that that might be the case. I am not aware that it happened during the time of the previous Administration. There seems to be a big black hole there at the moment. It is hard to get things to that Chamber. The messages should be dealt with cognately because when I looked at what was actually passed in the upper House, a few interesting points sprang to mind. Members will recall that message No 5, which was sent from this Chamber to the other House, went a little further than just saying that these Bills had been passed by the Legislative Assembly. Our message No 5, which was addressed to the President of the upper House, states -

The Legislative Assembly requests the Legislative Council to amend its procedures to ensure that they reflect the intention of both Houses of Parliament that all Bills which have been partially considered by the Parliament in one Session are capable of restoration to that point in the next Session of the same Parliament.

Mr R.F. Johnson: That is rather presumptuous.

Mr D.F. BARRON-SULLIVAN: Somewhat presumptuous would be the way to put it. The interesting point is that when this message was dealt with in the upper House, the Legislative Council also passed a motion to send another message to the Legislative Assembly. That is why it should be dealt with cognately with the message with which we are currently dealing. That second message reads in part -

... the Legislative Council -

- (1) does not agree that the difficulties associated with the three Bills can be rectified by altering internal practice and procedure. The Bills lapsed on prorogation by operation of law;

That last part is very important. The Legislative Council said that it was not a procedural stuff-up, but a matter of law. This is what worries me. If we do not get this 100 per cent right now, will we open up the possibility of confusion or uncertainty down the track, which could ultimately jeopardise the validity of the legislation that we are sending to the upper House? I reinforce, particularly in relation to the legislation that provides for the establishment of a mutual fund, that the consequences of any uncertainty about that legislation could be quite serious. Again, I will not go into that issue in more detail, because it will be dealt with when the other message comes to this House. However, the upper House made some other interesting points in its further message.

It is interesting that the part of the message that I quoted earlier, and which was agreed to by the Legislative Council, was actually part of a motion moved by the Leader of the House. He, of course, is a government colleague of the leader of government business in this House. The Labor Party's leader of government business in the upper House said that the Bills had lapsed on prorogation by operation of law. In other words, he essentially confirmed that the Bills had fallen into a black hole as a result of some degree of mismanagement by the Government. That was an interesting point. Ideally, the two messages should have been dealt with cognately.

I invite the Leader of the House to state in his response what priority the Government will give to the Volunteers (Protection from Liability) Bill and the Home Building Contracts Amendment Bill when they are ultimately

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dealt with in the upper House. There has been a lot of rhetoric in this place about the Opposition parties holding up business in the upper House. That argument has been blown asunder by the honest and frank admission by the Labor Party's leader of government business in the upper House that the Labor Party is getting more legislation through that Chamber now than when the Labor Party was in opposition. Yet we have not been given any firm commitment by the Leader of the House, the Premier or anyone else in government that these two Bills will be afforded the ultimate priority when they get to the upper House. I do not want the Leader of the House to provide some generalised rhetoric that these Bills will be given priority and that the Government thinks they are important. I want to know from the Leader of the House whether the Government will ensure that when the Bills get to the upper House, they will be listed at Nos 1 and 2 on the Notice Paper. The Government controls the order of business in the upper House. If these two Bills are to be given the priority that the Government says they deserve, the way to do it is to make them Nos 1 and 2 on the Notice Paper. I look forward to hearing about that in the response of the Leader of the House.

MR C.J. BARNETT (Cottesloe - Leader of the Opposition) [7.16 pm]: I have been trying to think of some suitable adjectives to describe the Premier, the Leader of the House and the Minister for Community Development, who is in this Chamber but is not in her chair. In my 12 years in Parliament, I have never seen such an incompetent performance by a Government. We had a debate on these two Bills and they passed through this Parliament on 21 August. It is now 24 September. It was a full month ago. I will quote the Rhodes scholar, the Premier of Western Australia, Dr Gallop. If it had been something like a Brownlow Medal, they would have ordered a recount. On 21 August in this Parliament, this great Premier of Western Australia said -

Let us get on with it and sort it out. People want politicians to sit down and solve issues, not play petty politics.

Here we are a month later talking about the same damn issue! Where is the Premier? He is swanning around in China, taking credit for something that he had nothing to do with. Good luck to him! That is okay; I do not mind him doing that. However, he said that we should not play politics. The Opposition will not play politics with this issue, other than to give the Government some good and long overdue advice about correct parliamentary procedure. This Government stands alone. It distinguishes itself from the other Labor Governments of Australia for its absolute ineffectiveness and ineptitude in handling the public liability issue. Not a skerrick of legislation has been passed in Western Australia. Premier Carr is on his second round of legislation. Premier Beattie has done at least one round. It is the same in South Australia and elsewhere. In this State, we are still yet to pass one clause on public liability. Why? Is it because of a difficult Opposition? No; it cannot be that, because when this legislation came through this Parliament on 28 June, it was at the instigation of the Deputy Leader of the Opposition and with the support of the National Party, both of whom introduced their own legislation. It was at their instigation that we sat through until Friday to pass the legislation so that it could be transmitted to the upper House, and we could proceed with legislation to provide protection to volunteers in the important area of public liability and lend some support to home builders on the indemnity issue. The legislation is deficient in many respects, but that is not the point of this debate. The Opposition did that on 28 June. Members opposite - the Government - were focused on packing their bags for their European trips. They were flying all over the world. It was only the Liberal Opposition, with the support of the National Party, that said on 28 June "No, let's do our job as members of Parliament of this community and stay here and pass this legislation." Boy, that is a fair while ago! How many months ago was it - June, July, August, September?

Mr R.F. Johnson: Three months ago.

Mr C.J. BARNETT: Yes. Parliament passed the legislation on 28 June. This House passed the legislation correctly only because the Opposition urged the Government to sit an extra day. The Bill had been first and second read, considered in detail, and passed with bipartisan support because it offered at least something to Western Australian home builders, community groups and small businesses affected by this insurance crisis; albeit six months late. The Opposition was responsible for that legislation being passed.

However, a problem arose. In a bicameral parliamentary system the legislation must be transmitted from one House to the other. No more than a runner is needed to jog down the corridor to the upper House. It is not very far. A good drop-kick would make it! The legislation must be physically taken there. The incompetent Minister for Community Development continues to release press statements about the importance of the legislation for volunteers. It is a pity she did not volunteer a bit of effort, get off her seat and do some work for the people of this State. She could have done something useful if she had put the legislation under her arm and carried it to the upper House. It is a pity some of the government members in the upper House did not make a big effort to give notice of the Bill. Surely that was not too hard. However, they did not do it. Meanwhile, Parliament was prorogued, as occurs every year. It is not a matter of choice; it is prorogued under the Constitution. As a result, the progress of Bills is terminated. However, if a Bill is at some stage in either the lower House or the upper

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House, by motion of those Houses, it can be reinstated on the Notice Paper, provided it was on the Notice Paper when Parliament was prorogued. One does not need to be Einstein to work that out. The legislation must be physically taken from this Chamber to the other Chamber. The Government did not do that; yet it was the Rhodes scholar Premier's No 1 priority, according to his five-point statement on 16 July. He was going to do something. However, he did not even get it from this House to the upper House. It was hardly an intellectual challenge to do so. I assume someone could have hopped down the corridor and got it to the upper House on time. A person could be blindfolded or walk backwards and still manage to get from this House to that House. Someone should have been given the Bill - woken up if necessary - and had the Bill read in. Why did the Government not do that? Where is the Minister for Community Development? She is missing in action again. She has been absent on this issue throughout this debate. She is not even in the Chamber - that is an indication of the priority she gives volunteers. It is an absolute sham.

The Parliament was prorogued, but the Bill did not arrive in the upper House. It was no good the Clerk of one House giving it to the Clerk of the other House. That process is not part of the parliamentary system. The parliamentary process governs what happens in both Chambers. That is the only process. Our constitutional arrangements bear no reference to what Clerks pass to each other. The Bill therefore had to be read in for it to be reinstated. It was not read in; therefore every member opposite failed their constituents and they failed as a Government. It was not read in and Parliament was prorogued. As the leader of opposition business said, the Bill lapsed. Neither the Opposition nor the Government wanted it to lapse. However, constitutionally, that is what happened.

It is now 24 September. Why am I somewhat animated? On 21 August, more than a month ago, the Opposition made exactly the same point. We told the Government that it had a constitutional problem and we offered help to overcome it. We suggested that the protection from liability Bill be reintroduced as the Volunteers (Protection From Liability) (No. 2) Bill 2002 - exactly the same Bill - on the basis that we would see that it was passed within an hour and we would do exactly the same with the Home Building Contracts Amendment Bill. At the Opposition's suggestion, on 21 August, more than a month ago, both these Bills would have been passed through this Parliament without any constitutional issue. What was the response of this Government? I quote from our Rhodes scholar Premier -

Let us get on with it and sort it out.

The Opposition is now saying let us get on with it and sort it out. The Government has made a mess of processing those Bills and it should be big enough to admit that. People want politicians to solve issues, not play petty politics. What has the Leader of the House done? He has done nothing else but play petty politics. What did the Premier do on 21 August? I think I said that the Bills had been lost in the aether or floated up to the Milky Way; I could not take a one-handed mark to get them back; the Bills had lapsed and must be reintroduced and passed immediately. The Opposition made an offer of goodwill to solve a problem, not because we like the Labor Party but because we knew volunteer groups, businesses and community organisations, including the building industry, were suffering and we wanted to support them. However, the Leader of the House was too smart by half to take that offer! The problem with the member for Nollamara, the Leader of the House, is that he is pig-headed, cheeky, arrogant, and incompetent.

Mr J.C. Kobelke: Haven't you got any more names? You are failing.

Mr C.J. BARNETT: I can think of more, but if I used them, I would be ruled out of order.

A month later we are back here again dealing with this issue. I referred to delays on this legislation. The Leader of the House asked by interjection what delays I was referring to. At least four weeks have been added to its progress due to his stubbornness and insensitivity to real people with real job losses, in real financial danger, with real liability problems and with real injuries. The delay has been caused by the stubbornness of the Leader of the House in not accepting the goodwill of the Opposition to deal with the legislation. It is incredible: the problem remains today. The leader of opposition business made the same offer today. He provided a chance to do it properly.

Mr R.F. Johnson: I have halved the time.

Mr C.J. BARNETT: I will halve it again: how about double or nothing? We will get it through. It is 7.30 pm now. If the Bills are brought in and "No 2" is added to the title, they will be passed by eight o'clock. We will then have constitutionally valid Bills. The Opposition will support the Government in this procedure, not because we believe it is right, but because we do not want to do anything to hold up this legislation.

The problem is, when the resolution is passed and returned to the Legislative Council, this Chamber will effectively have feigned the passage of this legislation. The legislation will have passed through this House but not in this session. When it is returned to the upper House, it will probably accept it and it will progress; albeit a

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month will have been lost. However, when large amounts of money are involved in a complex dispute over building indemnity or a tragic accident results in someone becoming a quadriplegic and a possible \$1 million claim is lodged against a volunteer of an organisation, someone at some stage will dispute the passage of this legislation. As Leader of the Opposition, I agree that that person will have grounds for doing so because this legislation will not have passed through this Parliament properly. Someone will have grounds at law for disputing the passage of this legislation. Nevertheless, within half an hour, the Leader of the House can remove that risk from the people of Western Australia, whether they be home builders, tourism or small business operators or people injured through no fault of their own.

The Government can give this legislation absolute security in its parliamentary and constitutional status. That offer is available, but the Leader of the House will not accept it. He will leave this legislation in doubt. If this legislation goes through this process, I place on the public record my view that it has not been validly passed through this Parliament. The Leader of the House is very foolish. He sits over there nodding away. In the debate on 21 August, he tried to make fun of me, and he abused me. He asked about the delay and argued that I did not know what I was talking about. He threw all sorts of adjectives across the Chamber. Legislation that could have gone through properly on 28 June is now still being dealt with on 24 September. The Leader of the House argued about a six-week delay, which has now turned into a three-month delay.

The Leader of the House is without a doubt the least competent manager of government business that this Parliament has ever seen. We saw it last week. He could not get legislation through and made the Parliament sit late at night. His own members admitted that they were in danger driving home. He did exactly the same to members on this side, when he knew we had a meeting in Merredin, about a year ago. One member of the Opposition virtually drove off the road, but fortunately an accident did not happen. The Leader of the House is placing members of this Parliament at physical risk. He is not handling the business of this Parliament properly. He nods there in a conceited, miserable way. For the first time in my life, I agree with Kevin Reynolds: the Leader of the House is not up to the job. He cannot manage the affairs of this Parliament, and he sits there with his smirky little grin.

He has put the Premier in the position of being the laughing stock of all State Parliaments around Australia, because he is the one Premier who has not been able to get a single clause of legislative reform on public liability through his State Parliament. The irony is that, even given the deficiencies of the legislation, it has bipartisan support. Every other Premier in Australia has been able to do something; the Premier of Western Australia has not. Now, for the sake of half an hour, the Government wants to put through legislation that is constitutionally in doubt. I make the offer again. It is now just after 7.30 pm. The Leader of the House could bring these Bills in, put "No 2" after them, first read them, second read and third read them, and pass them properly, so that there is absolutely no doubt. Why not do that? One reason is that the Leader of the House is not man enough to admit that he is wrong.

MR M.W. TRENORDEN (Avon - Leader of the National Party) [7.33 pm]: This passage that is being debated today has been one of the ordinary episodes of this year. I had my say when this first came up, as the Leader of the Opposition said, back in August. If it is of any value to the Leader of the House, if he wishes to reintroduce these Bills and put them through the House he will not get a speaker from the National Party. That is the contribution of the National Party to the process. We will make sure that there is no hold-up, even though the Government knows from past debate that the National Party does not agree with some of the provisions of the Bill. However, it is a matter of doing what is necessary for the House. The National Party gives that commitment to the Leader of the House: if he wishes to put the Bills back through the House, he will have our support.

MR J.C. KOBELKE (Nollamara - Leader of the House) [7.34 pm]: I will be brief. I thank the Leader of the National Party for his comments. I do not think it is necessary to do as suggested and I will address that matter shortly.

The vitriol and nastiness of the Leader of the Opposition likes to come to the fore. I am quite happy with that, because that is how the public out there is judging him. The public does not like his voice on the radio; his vitriol and nastiness comes through. I suggest he read in *Hansard* the speech he made tonight. If he does, he will be ashamed of it. He offers goodwill and then comes forward with a display of nastiness and vitriol that is not based on any fact. This shows up the total insincerity of what he had to say. He should read the *Hansard*; it will be absolutely clear.

The Leader of the Opposition, along with the Deputy Leader of the Opposition, suggests that somehow they were totally responsible for the Friday sitting in June and for getting the Bills through this Chamber. In one sense they were, because the Government wanted to do it on the Thursday evening, but the Opposition refused. The Government was willing to fit in with the Opposition, so the decision was made to sit on the Friday, at the

Mr John Kobelke; Mr Rob Johnson; Acting Speaker; Mr D.F.; Sullivan; Mr D.F.; Mr Colin Barnett; Mr Max
Trenorden

request of the Opposition. Furthermore, the Opposition has shown that it is willing to play petty party politics, with no understanding of how or willingness to uphold the forms of this Chamber and this Parliament. The Leader of the National Party, in his previous contribution to this debate, was the only member opposite that I can remember who was willing to countenance issues of substance between the two Chambers caught up in this issue. He put that point quite well, although I did not agree with everything he said. However, from the Liberal Party, all we have heard is petty political posturing on this.

I will take the example of just one of the Bills. The Yallingup Foreshore Lands Bill was passed through this Chamber on the Tuesday and was not actually presented in the other place. The Liberal Party is saying that a new arrangement is to be introduced into the forms and procedures of this Parliament, under which, if the Clerk at either end decides that a Bill should not go anywhere, it is to die. That is the effect of the tactical position being put by the Liberal Party. It is an absolute nonsense.

Another part of the Opposition's argument is that these Bills went into the aether. So did 50 other Bills when the Parliament prorogued. There were 50 Bills, in both Chambers, that simply fell off the shelf. The Parliament reimposed them by a motion moved in each Chamber to reinstate those Bills at the same stage they had previously reached. The argument put by the Opposition is absolute and total nonsense; it has no substance at all. The Leader of the National Party showed it up, because he opened up the issue of the relationship between the two Houses, and what is appropriate for the balance of power between the two. For the Leader of the Opposition to suggest that somehow the Government is feigning the passage of the Bills is a total nonsense, because half a dozen Bills were reinstated in this Chamber and 45 or so Bills were reinstated in the other Chamber. In the argument put by the Leader of the Opposition, they have all simply vanished and there is no power to reinstate them. That power clearly exists and there is no risk associated with it. The argument is being put by the Leader of the Opposition, who was the Leader of the House in 1997. To allow the Land Administration Bill to be passed, he passed a motion that overturned a key constitutional element of this State. Now he is trying to sound high and mighty about parliamentary procedures. The Leader of the Opposition is a joke.

Point of Order

Mr C.J. BARNETT: The Leader of the House has deliberately misrepresented me and impugned my role as former Leader of the House. The Land Administration Bill related to section 46 of the Constitution, which deals with financial Bills. The Bill was not lost in the aether. It was totally different, and the Leader of the House and the Premier came in here and misled the House.

The ACTING SPEAKER (Ms K. Hodson-Thomas): There is no point of order.

Debate Resumed

Mr J.C. KOBELKE: There is no point of order. I was about to conclude, but I cannot let the Leader of the Opposition get up and say things that are patently false without replying. There is no basis whatsoever for what he said. The Land Administration Bill started in the other place. The Speaker ruled that it was a money Bill and therefore could not be introduced in the other place. The then Leader of the House, now Leader of the Opposition, passed a motion to overrule the Speaker. He simply put aside the Speaker's determination that it was a money Bill. To my knowledge, that has never before happened in this Chamber. The motion totally overrode the ruling given by the Speaker that, under the Constitution Act, the Land Administration Bill was a money Bill, yet that Bill was not sent back to the other place as was required. This Leader of the Opposition, when on this side, played that kind of game, yet now somehow he has become a keeper of the standing orders and protector of the Constitution. I ask him to read his speech and see how full of vitriol and nonsense it is and how he has no argument of substance whatsoever. He simply cannot restrain himself from being nasty.

Question put and passed, and a message accordingly returned to the Council.