

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

RESERVES (RESERVE 43131) BILL 2003

Returned

Bill returned from the Council with amendments.

Council's Amendments - Consideration in Detail

The amendments made by the Council were as follows -

No. 1

Clause 2, page 2, after line 3 - To insert -

“

(2) This Act expires 12 months after it comes into operation.

”.

No. 2

Clause 4, page 2, line 27 - To insert before “Management” -

“ In addition to the circumstances set out in section 50(2) of the LAA, ”.

No. 3

Clause 4, page 2, line 27 - To delete “is revoked by force of this Act” and insert instead -

“ may be amended by the LAA Minister from time to time as the Minister considers appropriate ”.

No. 4

Clause 4, page 2, lines 28 to 30 - To delete the lines.

No. 5

Clause 5, page 3, lines 1 to 25 - To delete the clause.

No. 6

Clause 6, page 3, lines 26 to 29 - To delete the clause.

No. 7

Clause 7, page 4, after line 2 - To insert -

“

(1) The powers conferred by this section may be exercised by the LAA Minister in addition to any other powers that the LAA Minister may exercise.

(2) The LAA Minister may in writing appoint the Authority as administrator of the reserve in order to secure compliance with the terms of the management order.

”.

No. 8

Clause 7, page 4, after line 4 - To insert -

“

(a) the Authority, and except for the purposes of subsection (2),;

”.

No. 9

Clause 8, page 5, lines 27 to 30 - To delete the clause.

No. 10

Clause 9, page 6, lines 1 to 8 - To delete the clause.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

No. 11

Clause 10, page 6, lines 9 to 13 - To delete the clause.

No. 12

Clause 11, page 6, lines 14 to 21 - To delete the clause.

No. 13

Clause 12, page 6, after line 28 - To insert -

“

(3) In the event that any -

(a) amendment of the management order no. I262262; or

(b) appointment of any administrator,

is declared invalid, then all acts carried out prior to the declaration shall be deemed to be valid and effectual as if the amendment or appointment had been validly made.

”

Dr G.I. GALLOP: I move -

That amendment No 1 made by the Council be not agreed to and the following amendment substituted -

Page 7, after line 5 - To insert the following -

“ **13. Expiry of Act**

This Act expires on the second anniversary of the day on which it comes into operation.”

As members know, the Government was presented with evidence that there were continuing problems in relation to the safety of women and children living at the Swan Valley Nyungah Community and that unacceptable levels of risk are associated with that community. There have been five deaths associated with that community, and two inquiries and one inquest have been held. Another inquest is on the way. We continue to receive serious allegations from that camp about the problems facing the women and children. After the Gordon inquiry, the Government attempted through an alteration of the management order to change the structure of power that existed at the camp, but it was very clear that we could not get proper access to the individuals living at that camp because the people who visit are continually intimidated. That was made even more evident in an answer given today by the Minister for Community Development. Those who run the community made it clear in their approach to this issue and in their attitude that they were not going to change their behaviour. First, there have been continuing allegations and concerns; secondly, there has been no change in the way in which the place is managed; and, thirdly, we believed strongly that the time had come to revoke the management order to take off the site the troublemakers and to work with individual families to provide a new solution and new hope for their lives into the future. That is the background to the issue.

The method the Government chose has been controversial; that is, to deal with this issue through the Parliament. We made it clear in the debate in this place not so long ago that the reason for choosing that method is that the other methodologies available to the Government would not have been able to deal with the issue in the decisive manner with which it must be dealt. They created the potential for lengthy, legal disputation and in the meantime we would not have solved the problems that are occurring at the camp. Finally, and very importantly, the Government reached the conclusion that this camp must close in the interests of the women and children who currently live there. The Government proceeded to introduce legislation into the Parliament to revoke the management order and to put in place an administrator, who would be given the power to carry out the tasks that the Government believes are needed. The Government made it clear that it could then work with the women and children in the camp about their future. It also made it clear that it would consult with the Nyongah community about the future use of that land.

The Legislative Council determined that it wanted the Bill to include a sunset clause of 12 months. Although the Government agrees with the principle of including a sunset clause, in its view a sunset clause of 12 months would not be adequate. A two-year sunset clause would be more acceptable than a one-year sunset clause for

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

two reasons. Firstly, the Government must consult with the individual families about their future. That will obviously be done in the context of the troublemakers being taken off the site and not allowed back. That should not take too long. Nevertheless, their needs and interests will be taken into account. Secondly, and very importantly - I urge the Leader of the Opposition to consider this point - the Government wants to engage with the indigenous community about the future use of that land. Those sorts of consultations could take some time. We would hate there to be a situation in which those discussions were not complete and the status of the Swan Valley Nyungah Community was restored to that site.

Mr C.J. BARNETT: There has been an extraordinary series of events. I will begin by reading from *Hansard* from when this matter first came before this Parliament just under three weeks ago. The Premier introduced a Bill to the Parliament without providing any advice to the Opposition or any opportunity for any member on this side of the House to discuss the Bill, let alone read it. I will quote myself, which I do not often do. Members should bear in mind that I made these comments without having read the Bill or having had an opportunity to discuss it with a single colleague from either this or the other House, including the shadow Minister for Indigenous Affairs. I said -

I take it on good faith that the reason for the urgency of this Bill is that the Premier has evidence of continuing abuse of children. I assume that the reason this Bill is being put through this Parliament without effective debate is that there is an urgency relating to the protection of children today.

I quoted that passage because I meant what I said. I still hold to those words. Subject to much criticism from my colleagues, which I well understand, I allowed a Bill to pass through this House without debate, proper discussion, or any opportunity for members of Parliament on this side of the House to discuss the Bill and all its implications. I did so for one reason: if I interpreted the Premier's comments correctly, he asserted that children were at risk. When I challenged him, he said that they were at risk at that moment.

Mr R.C. Kucera: So they are.

Mr C.J. BARNETT: I do not need interjections from the Minister for Health. I will always put the safety and protection of children ahead of any consideration of party politics or the passage of legislation through either House of this Parliament. In doing so on this occasion, I probably made a mistake. I took the comments of the Premier in good faith. Examples of the abuse of children were leaked to the media and described by various ministers. When those examples were scrutinised, the facts were missing. They did not stand up. There were inconsistencies. Allegations of abuse were made against particular individuals who in some cases were not at the camp at the time of the alleged abuse, or victims suffered injury or abuse outside the camp. That is where I made my mistake. I took in good faith the fact that the Bill was being rushed into the Parliament because of a matter of urgency concerning the protection of particular children at the Swan Valley camp. The examples that came out over the subsequent three weeks did not match the rhetoric. That disappoints me. The next time the Premier comes into the Parliament, looks me in the eye and asks me to put my neck out in good faith, I will not do so.

Dr G.I. Gallop: I did not ask you to put your neck out; I asked you to do the right thing. What are you saying about putting your neck out?

Mr C.J. BARNETT: The Premier will have an opportunity to speak.

I will not do that again. I thought I was dealing with a crisis situation that affected the safety and security of individual children at that moment.

The second point concerns the passage of this Bill, which has broken every rule of parliamentary process. This legislation has got into difficulty simply because of the way in which the Government chose to handle it. The Government introduced the Bill into the Legislative Assembly on a Thursday and it was passed without debate so that it could reach the upper House, where it could at least be subjected to some scrutiny on the following day. We believed that upper House members would at least have the opportunity to read the Bill, discuss it among themselves and enter into a debate. Even then they were rushed. Again, they agreed to do it because they accepted the Premier at face value; that there was a genuine urgency to deal with the Bill. This Bill has essentially become deadlocked between the two Houses. What just under three weeks ago was a matter of absolute priority, and which I cooperated with -

Dr G.I. Gallop: No, you did not cooperate. Unfortunately, the upper House knocked it back.

Mr C.J. BARNETT: Nearly three weeks have passed. Why did the Government's Bill become deadlocked?

Mrs C.L. EDWARDES: The Leader of the Opposition is in the middle of making his comments. We would like to hear more from him.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr C.J. BARNETT: The Bill became deadlocked. Nearly three weeks have passed. What has happened to the urgency for this Bill? In the intervening period, at my instigation I met with the Premier and some other members to try to resolve this issue. We were offered some legal advice, because the points and amendments made in the upper House were of a legal nature. We sought to resolve it legally. It took repeated calls and correspondence from my office to get the legal advice that had been promised. I can only assume that when the Premier and I met, the legal advice was not available. It took more than a week for it to appear. The longer this went on, the more I felt that we were not being dealt with honestly as members of Parliament. It was little wonder that emotions and tempers became raised over that. We were told that we would be given legal advice. It was not provided. Phone calls were not returned. It arrived a week or so later. Where is the urgency for this Bill? This Parliament met that urgency but the Government squandered it with the way in which it handled the Bill.

Further issues were raised in the upper House. This amendment relates to the provision of a sunset clause. Extending a sunset clause from one year to two is probably sensible, because I do not think the issues will be resolved within a year. The Opposition will support the adoption of a sunset clause as recommended by the upper House and with the subsequent change to extend it to two years. Other issues were raised, such as the care and safety of children and their parents, particularly their mothers. Should the camp be closed, where will those people go? What is in place? Details have progressively come out. They were not provided initially. What provision has been made? It was suggested that the Government could already do what it wanted to do. The management order that the Premier talks about was approved by the Minister for Planning and Infrastructure. She has the ability under the Land Administration Act to revoke that management order on the basis of noncompliance. Why has the Government not chosen to do that? There are issues about the future use of the land and future rights. The process put forward by the Government in the legislation would effectively confiscate the land and remove people's rights over that land. I have no sympathy for those who have abused children and women in that camp. However, if the rights to the land are taken away, the rights of the victims will also be taken away. Did the Government ever discuss the interests of the victims? As dysfunctional as their families and lives might be, their only opportunity for the future might depend on the one piece of stability that they have. That one piece of stability might be the land at Swan Valley. That might be all they have to cling to. Did the Government think about the victims? I have no sympathy for the perpetrators. When I hear accounts - as I did this morning - of two-and-a-half-year-old girls and nine-year-old boys being raped, and of continual endemic abuse, I must repeat what I said in Parliament nearly three weeks ago: I will allow things to happen, even though they breach every rule and standard of this Parliament, if they will protect children. If that means me sticking out my neck, perhaps to the point of having it decapitated, so be it. I will stand up for and protect children.

There is a legitimate issue about how to do that. I have not been satisfied that the Government has been able to answer the questions posed. When we consider the amendments moved by the upper House - the Government can use its numbers to remove them - I will seek explanations from the Premier and his ministers. If the Premier wants this Bill to pass, albeit three weeks later, I will seek specific assurances from him and his responsible ministers, who have been very much missing in action on this issue. They are very big on delivering weekend media stunts, but are very weak on the detail of how they will care for and protect those Aboriginal children.

Dr G.I. GALLOP: That was a very disappointing speech from the Leader of the Opposition. The Government has put all the facts about this issue on the table - so much so that we believe Hon Derrick Tomlinson, MLC completely altered his position on it after we gave him the facts about what was happening at the camp. There is no question about the Government putting all the facts on the table. Those facts came to the Government through the heads of various departments. We have been absolutely open and transparent about those facts.

Every time the Leader of the Opposition has asked for information on this issue, we have given it to him. We have provided him with the legal advice given to us that indicates that the amendments moved in the Legislative Council by Hon Peter Foss make the legislation completely unworkable and gut it of its implications. We have given all that information to the Leader of the Opposition.

It is disappointing that the Leader of the Opposition continues to try to play politics with this issue and treats it as though the Government is trying to deal with the issue in a political way. We are dealing with it in a serious way, which is why we have chosen the course we have. That is why we have introduced our legislation. When the Government introduced this legislation, I explained that we knew it would be controversial. However, we had to adopt that course of action, otherwise this issue would have been locked up in endless litigation and legal argument. The Leader of the Opposition and the community know that, which is why we took this decisive action in the Parliament.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

The Leader of the Opposition's comments indicate that he does not understand this issue properly. The question of people being at that camp and not being at that camp was the very issue raised at the inquest into the death of Susan Taylor. People come and go from that camp. Unfortunately, when they go there, they are subject to great risk. For all sorts of reasons, there are a lot of transient people at that camp. That is the very point the coroner made about this issue. It is disappointing that the Leader of the Opposition uses that as a criticism of the Government, when we are responding to the very problem that exists at that camp whereby people who come and go from it are subject to risk. That is the difficulty that exists. The coroner and the departments have pointed that out. That is why action must be taken. The time has come for the Leader of the Opposition to treat this issue seriously. He should stop playing politics with it and let us get on with it.

Mr C.J. BARNETT: I will not rise to that bait. If there is one person in this Parliament who has not played politics with this issue, it is I. The Premier might grin, but I have not put out weekend media releases, called press conferences or made outrageous statements on this issue. I have tried to act in the best interests of the children and their mothers at the camp. The Minister for Police may interject. It is a pity she did not get closer to the issue. I give great credit to Hon Derrick Tomlinson because he visited the camp over the past couple of weeks. He spent some time there talking to as many people as he could. It is true that he made some comments on television that attracted some criticism of him from all quarters. However, he listened to and engaged with the people.

Dr G.I. Gallop: He was 100 per cent wrong.

Mr C.J. BARNETT: He will have an opportunity to speak on this matter when this Bill returns to the upper House. He made a number of comments to me this morning, to which I will refer later.

The Premier referred to Hon Peter Foss. During the debate on this Bill in the upper House, Hon Peter Foss pointed to legal issues with this Bill. Effectively, it takes away people's access to natural justice in the courts. It is significant when a Parliament takes away people's rights. Surely Parliament and the House of Review should examine that. What is wrong with doing that? As Hon Peter Foss pointed out in the upper House, this Bill will inevitably be seen to be discriminatory. It discriminates against a particular group of people who happen to be Aboriginal indigenous Australians. No matter what the Government might seek to do about natural justice, there will be a legal opportunity to pursue this issue under the commonwealth Racial Discrimination Act. The Government and this Parliament cannot deny people's rights to that. They are the types of points Hon Peter Foss pointed out. He suggested some ways in which the Government could proceed without going down that dead-end path, which would end up in all sorts of litigation. As we go through these amendments, I will seek from the Premier and his ministers - if they are able or capable - an explanation of why this should be done, because I am not convinced that it is the right thing to do.

Dr G.I. Gallop: We explained that last time.

Mr C.J. BARNETT: The Government has not convinced this Parliament. It is all right for the Premier to sit there and say that he has already explained it. However, the Premier, who has handled this Bill, has not mounted a strong enough case to get it passed in the upper House. The Premier must accept the reality that this Bill failed to get through the Parliament. That is the reality with which the Premier must deal. I will offer the Premier something - why I do it again is beyond me -

Dr G.I. Gallop: Are you offering me something on behalf of the Liberal Party or on behalf of the Legislative Assembly?

Mr C.J. BARNETT: The Premier should sit there, listen and show some courtesy, if not to me, to this Parliament.

Dr G.I. Gallop: Speak. You have a right to speak, so speak.

Mr C.J. BARNETT: Sit and listen. The Premier might learn something. This Bill will go through the Parliament if the Government can provide some assurances. The Premier and his ministers will have an opportunity to do that in this debate. We will seek assurances about the current welfare and long-term safety, security and accommodation of the residents of the Swan Valley camp. We will seek assurances about how they will be dealt with, managed or assisted right now and what their long-term prospects will be. After all, what is this issue about if it is not about the women and children and all the innocent people in that camp? If the Premier provides those assurances, there will be a better than even money chance of getting the Bill through the upper House. Some people will object to it, but the Government must provide those assurances.

The Premier must tell Parliament how he will deal with the land issue. Earlier I suggested that this Bill should be split. It should deal with the immediate issue; that is, the safety of the women and children at the camp and

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

the issue of abuse. Then, later, in a more reasoned environment, the Government could deal with people's entitlements and rights to land. I remind the Premier that, essentially, this reserve was created for the benefit of Aboriginal people. There is a history of people camping on that site. Under the previous Government in 1994, Hon Kevin Prince, as Aboriginal affairs minister, granted this reserve for the benefit of Aboriginal people. People began camping on that site in 1977. In September 1994, a crown land C-class reserve for the use of Aborigines was granted, and so the history continues. The Premier is now asking the Parliament to legislate to take away those rights.

Dr G.I. Gallop: It is not a right.

Mr C.J. BARNETT: The Premier should tell that to the Aboriginal people who have camped and lived in the Swan Valley. He should tell the kids who were born in that community that they do not have any rights. They have rights, and the Premier cannot deny those rights by legislation, even if they are forced to use the Racial Discrimination Act or whatever else to defend those rights.

The Premier is bound to provide an assurance that the welfare, care, safety and protection of those people will be guaranteed. He is bound also to tell us how he will set up a fair and proper process for resolving issues relating to the rights to that land. I have no sympathy or time for Mr Bropho and some of his sons. However, I have time and sympathy for the people, most of whom have been victims at one stage or another, who genuinely consider that camp their home. They have rights. Even if the camp is closed and they never return, they have a legitimate right to be involved. The Premier wants to legislate to take away their rights. I could not imagine anyone legislating to take away the rights of an Anglo-Saxon group within our community. The Premier is asking this Parliament to do an extraordinary thing: confiscate rights on effectively a discriminatory - by race - basis. I will not get hung up on that issue -

Dr G.I. Gallop: It is not a correct description.

Mr C.J. BARNETT: The Premier may have a different view. That is exactly how the Aboriginal people see it.

Dr G.I. Gallop: No, they do not. They support us.

Mr C.J. BARNETT: Not the people who have written to me and who have spoken with Hon Derrick Tomlinson.

Dr G.I. Gallop: The Aboriginal community supports us in what we are doing.

Mr C.J. BARNETT: The Premier will be able to speak. The Premier will get this Bill through Parliament if he can give an assurance about the immediate care, welfare, safety, protection and housing of the people living in that Swan Valley community, both now and in the long term; and - if he has not already done so - if he devises a fair and proper process for giving those people a legitimate say in what happens to that land and their rights. The Premier has my support when he acts in this Parliament to take away the rights of people who commit crimes against young children; however, in this case he is also taking away the rights of people who are victims. Why should they suffer any more than they already have?

Mr P.G. PENDAL: I am not sure that I understand what we are doing. However, if I do understand correctly, I am not sure that we are going about it the right way. I do not have any problems with sunset clauses. In fact, sunset clauses have a healthy use when the Parliament wants a piece of legislation to have a finite life. As I understand it, the one thing the Government and the Opposition have agreed upon is that the legislation we are being asked to pass today will have a sunset clause attached to it. The Opposition in the upper House said that such a clause should come into effect after one year, and the Premier has indicated to us that the Government can live with a sunset clause, but that it must come into effect after two years. I do not have a worry with sunset clauses, but I am concerned that if we insert into this Bill a sunset clause that provides that in two years the legislation will be a dead letter, we will then be in a position in which the pre-existing law will apply. The Bill before us will revoke management order No I262262, which places the reserve in the hands of the Swan Valley Nyungah Community. If the effects of this Bill are removed by virtue of a two-year sunset clause, the revocation of the management order will not have any further effect. Therefore, on this occasion the Government's resorting to a sunset clause will not only be ineffective but also do the opposite of what is intended. The Government might have been better off with a review clause that provides that the legislation must come back to the Parliament, which then determines whether it wants it to continue. It seems that a sunset clause will do precisely the reverse of what the Government hopes to do. The use of a two-year sunset clause means that we will in effect set aside the revocation of the management order, and that property would under law revert -

Dr G.I. Gallop: No, it does not.

Mr P.G. PENDAL: Hold on -

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. Gallop: Don't you want me to respond?

Mr P.G. PENDAL: Yes, I want the Premier to respond, but I do not want him to respond in the way in which he responded to the Leader of the Opposition.

Dr G.I. Gallop: I thought it would be good to deal with the issue quickly. It is not a problem because of the Interpretation Act.

Mr P.G. PENDAL: Would the Premier please be quiet? We do not want to deal with this quickly because we mucked it up three weeks ago. One of the few contributions I made three weeks ago was that if we did it that way we would muck it up.

Dr G.I. Gallop: How have we mucked it up?

Mr P.G. PENDAL: We have mucked it up in the sense that, three weeks later, the Government is left with nothing.

Dr G.I. Gallop: That is the fault of the upper House.

Mr P.G. PENDAL: If the Premier really wants some cooperation, he might take a bit of advice from the Leader of the Opposition. The Premier's job is to justify the legislation. Not only the Opposition but also other people took the Premier at face value three weeks ago. I happened to be one of them. I supported his Bill. However, many of the things I have seen in the three weeks since make me feel that I should not have supported the Bill. That is why I do not want the Premier to interrupt me while I am speaking. He can use his own five minutes. I have a basic question. I know that sunset clauses are good. However, I think that in this case the use of a two-year sunset clause will return us to the status quo.

Mrs C.L. EDWARDES: The amendment to the amendment made by the Legislative Council relates to a sunset clause. I will allow the Premier to respond to the member for South Perth about the effectiveness or otherwise of a sunset clause. We raised the issue of intent in this place some three weeks ago. We asked what would happen once the administrator was appointed. The Premier can say this afternoon that he has been open and above board with all the information. However, very little information was given to this House on the afternoon of Thursday, 15 May. That is particularly so when we consider what has been disclosed over the past couple of weeks.

Dr G.I. Gallop: Give an example.

Mrs C.L. EDWARDES: I refer to the legal advice and the management plan. When the Premier was asked what would happen to the families -

Dr G.I. Gallop: I answered that fully and comprehensively.

Mrs C.L. EDWARDES: What did he say?

Dr G.I. Gallop: I said that we would work with each of those families to find an appropriate place for them.

Mrs C.L. EDWARDES: Yes. The point was whether the camp was to be closed or kept open.

Dr G.I. Gallop: It will close.

Mrs C.L. EDWARDES: When was it going to close? What was the time frame in which it would close? Contradictory remarks have subsequently been made. We were told that it would happen quickly, and then told that it would happen not so quickly.

We support an extension of the sunset clause from 12 months to two years because in the past couple of weeks we have learnt that the departments want time to deal with the families that are left behind. Did the Premier tell us that?

Dr G.I. Gallop: That is right. That is what I said.

Mrs C.L. EDWARDES: No, he did not.

Dr G.I. Gallop: Yes, I did.

Mrs C.L. EDWARDES: He did not tell us anything of the sort.

Dr G.I. Gallop: You obviously were not here.

Mrs C.L. EDWARDES: I was here and I asked the Premier the question.

Dr G.I. Gallop: You obviously were not listening.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mrs C.L. EDWARDES: I asked him the question.

Dr G.I. Gallop: I answered it.

Mrs C.L. EDWARDES: This Premier is not serious about dealing with this legislation in a bipartisan way. If he were serious about it, on the Monday the Cabinet approved the drafting of the legislation he would have rung the Leader of the Opposition and said that there was a major problem. He would have said that he, or someone in his office, needed to sit down and go through the issue with the Leader of the Opposition. The legislation was still being drafted and the Premier said, "We can't give it to you. Let's aim for a briefing time." The Opposition aimed for that briefing: it was to be at 11.15 on the Thursday morning of the day we were to debate the legislation. Was the legislation available? No. The briefing was cancelled because the legislation was not available. If the Premier had been serious about this matter, he would have dealt with it in a bipartisan manner. He was not serious. He was more interested in improving his public profile and going out and beating the drum.

Mr C.J. Barnett: He told the media before the Parliament.

Mrs C.L. EDWARDES: Indeed. The same happened with the legal advice. The media received the legal advice before the Leader of the Opposition. If the Premier were serious about this matter, he would have done more work over the past couple of weeks. He is only interested in a public relations campaign and presenting a good profile.

Mr P.B. Watson: You're making it into a political football!

Mrs C.L. EDWARDES: No, I am not. Go back and think about it.

Several members interjected.

Point of Order

Mr P.G. PENDAL: Over the past three months, the Speaker has insisted that there be no cross-fire interjections to the point that members cannot hear debate. I ask for you to rule, Madam Acting Speaker, that members making such interjections desist or leave the Chamber so the rest of us can listen to what is taking place.

The ACTING SPEAKER (Ms K. Hodson-Thomas): I thank the member for South Perth. I ask members not to interject. We are in consideration in detail on a very important issue.

Debate Resumed

Mrs C.L. EDWARDES: This is exceptional legislation. It is probably one of the most exceptional matters with which we have had to deal in this Parliament, and we are asked to do so in a short period. Usually with such legislation, ministers bend over backwards to work with the Opposition to get the legislation through. Ministers provide as much information as possible, and any amendments sought are worked through. I have been in this place long enough to know when a minister or a Premier is serious about an issue. That has not happened on this occasion. I suggest that the Premier has been disingenuous in this matter. Child abuse, sexual abuse and domestic violence is happening not only at the Swan Valley Nyungah Community.

Mr C.J. BARNETT: I would like to hear more from the member for Kingsley.

Mrs C.L. EDWARDES: What will the Premier do about all the other allegations involving other Aboriginal communities in Western Australia?

Dr G.I. Gallop: Have you read our response to the Gordon report recommendations?

Mrs C.L. EDWARDES: Yes, I have.

Dr G.I. Gallop: There's my answer.

Mrs C.L. EDWARDES: What is the Premier's answer? What will he do?

Dr G.I. Gallop: I'll tell you in a minute.

Mrs C.L. EDWARDES: Good. I am not sure the Premier remembers what he will do. He has been interested in public relations and the glossy publications. What about the other incidents in the camps around the metropolitan area and around other parts of Western Australia? I questioned the Attorney General during hearings of the Estimates Committee two weeks ago. Department of Justice officers outlined that \$1.4 million is allocated to the Aboriginal reconciliation unit. Mr Alan Piper, the Director General of the Department of Justice, visits Aboriginal communities where issues of concern arise; obviously, I refer to issues of a justice nature - child abuse, sexual abuse, physical violence, domestic violence and other such issues. I asked Alan Piper through the Attorney General whether he had visited the Swan Valley Nyungah Community. His answer was

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

no. He had visited many other communities with serious issues, but he had not visited, or been asked to visit, the Swan Valley Nyungah Community.

I suggest that the Opposition took this legislation on good faith on 15 May. That good faith was abused in a number of ways. First, the Premier was not entirely honest in dealing with the measure appropriately; otherwise, he would have spoken to the Leader of the Opposition straight after discussions in Cabinet. The Premier rushed through the legislation on the basis that it was urgent. The Opposition took the Premier's word, and the Bill was sent to the Legislative Council, which had a little more time - although not much more - than that available to members of this House to deal with the legislation. Members of the upper House pointed out some flaws in the Premier's legislation.

Dr G.I. Gallop: Which ones?

Mrs C.L. EDWARDES: We will go through each of the amendments one by one, and ask the Premier to satisfy the House that each amendment is not good. Until the Premier comes back to the House in 12 months, the Opposition will remind him every day of every week of every month that every Aboriginal child who is being abused will be the Premier's problem. If the legislation passes through Parliament, it is the Premier's legislation and his problem.

Dr G.I. Gallop: And you are not going to play politics with the issue!

Mrs C.L. EDWARDES: We will allow that to happen because, at the end of the day, the Premier has not been honest with the Opposition and the Parliament. What did the Premier say to Legislative Council members? He said, "If you don't pass the legislation, the next step is on your head." That is what the Premier said, through Hon Tom Stephens in the upper House.

Dr G.I. Gallop: I thought you said that I said that. Are you going to retract that?

Mrs C.L. EDWARDES: Is the Premier the Government? That was said to members of the Legislative Council. I take my hat off to members of that place. At least they have pointed out flaws in the legislation. If the Premier were smart, he would look at the matter seriously instead of playing politics with it. However, the Premier suggests that the Legislative Council is playing politics; he says that Chamber has no business or right to question the Government's legislation: "We are the Government - how dare they question us!" Upper House members have pointed out flaws in this contentious and exceptional legislation. It is the Premier's responsibility to ensure this matter is dealt with properly, and that the families involved are dealt with with sufficient care to ensure they are looked after and protected. People must be properly consulted over the next period. I do not expect the matter to be dealt with in months. It will take time. Therefore, two years is the appropriate sunset clause, rather than 12 months. This issue must be dealt with sensitively, and not in the way the Premier has dealt with it to date.

Mr C.J. BARNETT: I add a brief further comment to those of the member for Kingsley. This measure is about children and women in particular. If the Bill passes, which it may if the Opposition receives the assurances -

Dr G.I. Gallop: That's a pretty strong guarantee from the Opposition. Does that mean you don't have a position on it?

Mr C.J. BARNETT: The Premier just lacks grace, does he not? We are talking about a two-and-a-half-year-old girl being raped, and we are talking about the potential for children to be murdered - bodies yet to be found. Is that right?

Dr G.I. Gallop: That's right.

Mr C.J. BARNETT: We on this side of the House are not playing politics; I assure the Premier of that.

Dr G.I. Gallop: You'll not guarantee to support the Bill. You just told us.

Mr C.J. BARNETT: I said a little while ago that the Opposition seeks assurances on the care and protection of those people.

Dr G.I. Gallop: You'll get those.

Mr C.J. BARNETT: We are waiting on those. Also, I seek an account of how people's legitimate rights in respect of that property will be handled. The Premier asks this Parliament to overrule their rights. No other group in society has arbitrarily had rights legislated away. However, that is a secondary issue; the child safety issue, the issue of the safety of individuals, comes first.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

The Premier has said that the Bill will be used to close the camp. The Premier or the administrator could close it now; nevertheless, the Premier chooses to act in this way, only because he fears legal action. There will be legal actions in any case - that is certain. I ask the Premier a question. The Premier says he will close the camp. The Opposition hears from officers with agencies involved in this matter. They contact us, sometimes informally and sometimes over the weekend, to outline that their greatest chance to protect the children and women in the camp is to first stabilise that community in the best way they are able. To do that, those professionals are saying that those people will be better off if they are left on the site. We will have more of a chance of dealing with them and providing support, care and assistance if they are left there. If the decision is then made to close the site, we can progressively move them into other accommodation. To move them out and scatter them around the metropolitan area may place those children at even greater risk and in more danger than they are now. That is the sort of legitimate question that members of this Parliament can ask. Has it been decided to close the site immediately or to move the people out gradually? The professionals, the law enforcement agencies and the members, the supporters and the people who have associated with and have a knowledge of the community - both past and present - all have the common message: the kids are at risk and they have been abused, which is totally unacceptable, but it does not allow for a simplistic solution. We are dealing with 35 or 50 people in this camp and the best way of assisting them might be to leave them where they are. I remind members that many of those young children were born at that camp and have grown up there. They might have been abused - probably the majority of them have been - but the camp might be the one piece of stability left in their lives -

Mr A.J. Carpenter: What sort of stability is that?

Mr C.J. BARNETT: Not the sort of stability that anyone in this Chamber would understand. If we scatter those families throughout the metropolitan area, the ability of the Department for Community Development or indeed the Police Service to protect those children and women may be lessened. They may be more at risk in an open community than in a camp from which the potential offenders have been removed. This needs to be thought through logically. It is all very well to say that the camp will be closed - that sounds good and gets a good media run - but will it actually help the people or will it put some of them at greater risk? It may well do the latter.

Ms S.M. McHALE: In response to the member for Kingsley, I will comment on what we are doing about domestic violence and child abuse. By now a report should be on the web site that provides an update on the status of the implementation of those recommendations six months post the Gordon inquiry report. If it has not yet been released on the web site, I will personally give the member for Kingsley - who is interested in these matters - a copy of it so that she and members of the Opposition can see the progress and where the implementation is at.

This year we will construct three multi-function police stations in remote Aboriginal communities, one of which will be the Kalumburu Aboriginal community. We will appoint an Aboriginal support worker who will work closely with Aboriginal communities throughout the State. We will work intensively with families who we know are at risk and are dysfunctional, and they will be supported by about 11 additional intensive family support workers. We will also provide additional safe houses in the metropolitan area and regional Western Australia. The Government is implementing the recommendations of the Gordon inquiry in a significant way. In 2003-04 we will see a dramatic improvement in the quality of services on the ground.

Mrs C.L. Edwardes: Have you actually been to the Swan Valley site?

Ms S.M. McHALE: No, I have not, but my staff have. In relation to the accusations made against the Premier, he has been absolutely passionate about and committed to dealing with child sexual abuse, particularly in Aboriginal communities. He had the foresight to set up the Gordon inquiry. We knew at the time that it was not going to be easy, because when an inquiry like that is set up, it highlights the problems and deficiencies in the system. We also knew that we would have to respond significantly.

Mr C.J. Barnett: Have you met with people from the camp?

Ms S.M. McHALE: Yes, I have.

Mr C.J. Barnett: How long ago?

Ms S.M. McHALE: I have communicated with them in the past 12 months or so. My staff meet with them and they are at the camp on a regular basis.

I will also comment on the process of managing the families, in particular the women and children. Once the Parliament approves the decision to close the camp, the agencies involved - primarily the Department of Housing and Works, the Department for Community Development, the Department of Health, the Department of Indigenous Affairs and the Police Service - will act. They are on stand-by with designated staff who will work

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

with the women and children. Our approach to this issue is that, essentially, we need to engage the families from the camp and involve them in the decisions made about their lives. Clearly, the decision to close the camp is the decision we want. The decision then to work with the women and children will be the priority. The staff are ready to go and they will work and engage with the women in determining what is the best environment for them in which to feel safe and protected. Those people do not see the camp as being a safe and secure environment.

The Premier raised an issue that needs reaffirming. We are particularly concerned about the children who come and go from the camp, because their safety is particularly at risk. They usually live elsewhere but have runaway from home and gone to the camp - they do not live there permanently. We have a strategy to manage the rehousing, relocation and safety of these women and children. It will be a concerted approach by all the agencies involved, including the Police Service.

Dr J.M. WOOLLARD: Three weeks ago when this Bill came to this House I asked the Premier what other options had been considered and what arrangements had been made about accommodation. The Premier stated there were other legal options and that they would be time consuming. I was given to believe by one of the ministers that if the Bill did not go through on that day, there could be another death in the camp to which I would have contributed.

Dr G.I. Gallop: Rubbish!

Dr J.M. WOOLLARD: It is no good the Premier sitting there and saying "rubbish". The Premier should ask the Leader of the House - he is not here at the moment - because he told me there could be another death if I did not support the Bill and asked whether I wanted to live with that on my conscience. Emotional blackmail was used here three weeks ago when this Bill was passed. The Bill should have sat on the Table - like any other Bill - and it should have come back to this House after members had had the opportunity to look into the issues.

The Minister for Community Development, Women's Interests, Seniors and Youth just said what a wonderful job the Premier did with the Gordon inquiry. What happened to the recommendations of the Gordon inquiry? I have been told that soon after the inquiry finished a member of the Swan Valley Nyungah Community wrote to the Government to develop one of the recommendations from the Gordon inquiry; that is, a memorandum of understanding. Where is that memorandum of understanding? It is not here, Premier, yet someone from that community wrote to the Government soon after the Gordon inquiry finished to ask about that.

What are the other options? The Premier has said that this is a select community that must be dealt with. He has said that abuse has been happening there for a while and that he wants to protect the women and children. What other options has he considered? Has he talked to members of that community in the past? Has he had someone say to them, "I have heard there are problems here. Would you like accommodation elsewhere? Can we give you assistance elsewhere?" Has the Premier asked for an Aboriginal trial to be held by the Aboriginal elders to sort out the problems? No, nothing like that was put to that community. I have been told that the Friday before this Bill came to Parliament the Premier had a meeting with the Ministers for Health, for Community Development and for Indigenous Affairs, and Mr Mick Gooda from the Aboriginal and Torres Strait Islander Commission. The Friday before it came to this House! That was one week beforehand. The Liberal Party was given notice only the day before. There was no time that day to consult with the Aboriginal community. Since then, I have consulted with the Aboriginal community. Members of that community have admitted that there may be some problems and that they would like to see the problems resolved. However, they do not want them to be resolved in the way in which this Government has moved. Other Aboriginal communities have problems as well. They have asked why their community is being targeted. What is the hidden agenda? I believe that in 1995 the coalition Government offered to give the land freehold to the Swan Valley Nyungah Community. The community thought that, as the land was part of a reserve, it was safeguarded. I have been advised that the adjoining land is owned by the Disability Services Commission and that the Swan Valley Nyungah Community was meant to have first option on purchasing it. I have also been advised that the Government has pegged the adjacent land in order to sell it. If the Government gets the community off the reserve, it will receive a much higher price for the adjacent land. Members of the Aboriginal community are very concerned about the hidden agenda.

Mr P.B. Watson: The community knows you are right behind them!

Dr J.M. WOOLLARD: I advise the member for Albany that members of that Aboriginal community have told me there are problems in various areas. The land involved is possibly quite valuable. What will happen to the land in 12 months or two years? I have been told that the land will not be used for accommodating the Aboriginal community.

Ms S.E. WALKER: I am pleased that the Premier has taken up my suggestion to insert a sunset clause in the Bill. The Premier is nodding his head now but he did not at the time; he argued with me about eight times over

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

the point. I will go over my argument for the sunset clause. I have difficulty with the denial of natural justice and other rights that will be taken from people as a result of this Bill. Page 7908 of *Hansard* shows the discourse between the Premier and me when the reserves Bill came on a few weeks ago. I asked whether the clauses of the Bill denying natural justice applied only to the removal of the 25 persons or whether they would apply indefinitely, as that would create a different situation. Bearing in mind that other people will be allowed on the reserve, I asked how long the denial of natural justice would be enforced with sections of the Aboriginal community. The Premier would not back down, no matter how many times I raised the point that the powers would be given indefinitely. That was my concern. I asked that a review or sunset clause be included in the legislation. I am pleased that such a clause has been put in the Bill. I thank the members of the upper House for pursuing the issue and for the Premier coming to his senses. To take away such rights from people indefinitely is draconian.

The Leader of the Opposition and the members for Kingsley and Alfred Cove have raised the issue of the haste with which this Bill was brought on. It reminded me of children who approach their parents. When they want something, everything is urgent. As a consequence, the parents come to believe it is urgent. They say, "I need \$10 - if I do not get it, X will happen." It is the same situation. The Opposition took this issue on in good faith. Since my time in Parliament I have seen a lot of dodgy things go on. I am very serious about child sexual abuse. I was a crown prosecutor and have taken victims through the criminal justice system. I have seen what it can do to people. I have seen the dreadful things that can happen to children. It is why I voted with the Government on the Bill. I now wonder about the Premier's seriousness. I hope that the Government will follow through on what it says about Aboriginal people. I have seen a lot of window-dressing by the Government and a lot of quick-fix solutions. It is not providing long-term solutions.

As an example, I refer to a situation in Onslow that shows a failure to implement the recommendations of the Gordon inquiry. Police in the town are concerned about the endemic child abuse. No Department for Community Development officer is permanently appointed in the town to assist with the problem. In the town today, 19 children aged between seven and 14 years wandered about when they should have been at school. Since the start of the year, 40 Aboriginal juveniles have been charged with offences including breaking and entering, stealing and wilful damage. One case allegedly involves an 11-year-old who broke into a hotel to steal alcohol. A nine-year-old girl has been wandering from house to house in the town since Easter looking for food while the police try to locate her family. Will the Premier ask his minister to do something about this? Will he do something about it? Last week in Onslow, a 12-year-old girl and a 14-year-old girl, who were also homeless, had to get assistance from the Salvation Army. The Salvation Army had to find a family to take the children. They had been left alone in the town. The Salvation Army had to step in because the Department for Community Development could not come up with any money. Is this Government serious? That is why I asked a question of the Minister for Indigenous Affairs during question time today. Will the Premier look into this and show how serious he is? I will ask a question later this week to see whether the Premier has moved on this matter. I will find out from the people in Onslow. I want to see long-term solutions to child sexual abuse. I do not believe the Government is seriously committed to providing those solutions.

Dr J.M. WOOLLARD: As the Leader of the Opposition pointed out earlier, this legislation is taking away basic human rights. It is not constitutional and the community is within its rights to take this matter to the federal Government to challenge what the State Government is doing. I know that the Swan Valley Nyungah Community is very concerned at the way in which the Government has brought this Bill before the House. It may ask the federal Government to conduct a royal commission into the State Government's actions. The community does not trust the State Government's motives in singling it out. The Leader of the Opposition said that health and safety are the first priorities. He also asked what would happen to the land. Many people are very interested in what the Government is planning to do with the land and the adjoining land.

Several members interjected.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, members! I am finding it very difficult to hear the member.

Dr J.M. WOOLLARD: In introducing this Bill, is the Premier trying to isolate some of the functions that the Swan Valley Nyungah Community performs? The larger picture of urban Aboriginal issues is discussed at meetings on the Swan Valley site. Aboriginal elders from the metropolitan area meet at the site to discuss heritage issues throughout Perth. We know that the Government had a change of policy. The Premier said there was a change of policy in selling off community assets. What about Aboriginal heritage? Some members of that Swan Valley Nyungah Community have caused difficulties for this Government on Aboriginal heritage issues. As well as looking for accommodation, will the Government also provide a place where Aboriginal elders can come together and discuss heritage issues? The community is very concerned, and is wondering what the

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Government's hidden agenda is. Everyone accepts the issues of the health and safety of members of that community, but as members of the Opposition have pointed out, those issues are not confined to the problems at the Swan Valley camp. We are not in this House to legislate to take away rights. If there are problems, we should be legislating to assist those people. It was said in the upper House that if those people were not moved out into the community, there would be a death. Will the Premier give an assurance that, when these people are moved out of this community, there will be no deaths? He cannot give that assurance; no-one can give that assurance. People may die in the compound, but Aboriginals also die outside the compound. I have been told that there is a tavern in Belmont where firing practice takes place, and seven people have died in the past few years. We have not seen legislation about that. Why are we legislating to take away basic human rights rather than putting resources into that community? Maybe some money can be given to the Law Reform Commission to assist that community to look at its own methods of justice; to deal with the problems within the community rather than imposing what this Government feels is wanted.

Ms S.E. WALKER: I will respond to the assertion of the Minister for Community Development that the Premier is passionate and genuine about dealing with child sexual abuse in this State. She said, once again, that there would be three multi-function police stations and some Aboriginal support workers. We have also heard that the budget will provide for child protection workers, some of whom will be posted in the regions. There are 800 people in Onslow, 400 of whom are Aboriginal. I understand that 18-month-old children are wandering around in nappies, without their parents. I am not exaggerating. I want the Premier to look at this.

Point of Order

Mr R.C. KUCERA: On two occasions I have listened to the member for Nedlands talk about something that has no relevance to the legislation. What happens in Onslow is not a matter to be dealt with by this Bill. It is time the member returned to what we are discussing today.

The ACTING SPEAKER (Ms K. Hodson-Thomas): The minister is quite correct. We are in consideration in detail, and debate must be relevant to the amendment before the House. We are dealing with amendment No 1, which states -

Clause 2, page 2, after line 3 - To insert -

(2) This Act expires 12 months after it comes into operation.

I remind the member to keep her comments relevant to the question before the House.

Debate Resumed

Ms S.E. WALKER: The Minister for Community Development spoke on that issue, and I am responding to what the minister said about child protection workers. No child protection workers in the new batch are going to Onslow. They are going to Karratha.

Point of Order

Mr A.J. DEAN: Again, it is a question of relevance. Just because the minister probably broke the standing orders does not make it legitimate for the member for Nedlands to do so. I request the Acting Speaker to direct the member to be relevant.

The ACTING SPEAKER: I remind members to keep their comments relevant. The member has been on her feet for only a short time since I ruled on the last point of order. I now provide her with the opportunity to speak to the amendment before the House.

Debate Resumed

Ms S.E. WALKER: I refer to the Premier taking up my suggestion to insert a sunset clause into this Bill when the matter was last before the House. I commend him for that because, when we were debating this legislation, I talked about some of the problems with the Bill, and the general problem of child sexual abuse. I am talking about the Gordon inquiry and its recommendations, which are all bound up in this issue. The sunset clause is proposed by the minister and the Premier to implement, in some way, the recommendations of the Gordon inquiry. I am querying whether that is the genuine purpose of the sunset clause. The Premier says that the sunset clause will give the Government time to remove the perpetrators from the community and deal with the abuse of women and children in the community. I question the sincerity of that intention, based on the failure of the Government to send any child protection workers to Onslow. Tom Price will get one for five hours a week.

Mr A.J. Dean: That is drawing a long bow.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Ms S.E. WALKER: The member for Bunbury does not want to hear about it, but he will hear about it. There will be another worker at Roebourne, which is three hours away, where there is endemic child abuse -

Mr A.J. Dean interjected.

Ms S.E. WALKER: If the member for Bunbury cares about this issue, he should be a man and get to his feet and talk about it. I ask the Premier to ensure that a child worker goes to Onslow. He can find the funds for one vote, one value, but can he find the funds to send a child protection worker to Onslow and show that he is, as the Minister for Community Development said, passionate and genuine? I do not see that coming from the minister. She cannot even find the time to go to the Swan Valley Nyungah Community to look at an issue within her own portfolio. She has a chauffeur-driven car, and she cannot even go there to look at what is going on. She says that this Government is passionate and committed. I do not think it is.

Mr M.J. BIRNEY: Can the Premier enlighten me as to what section of the Bill tells us that the Swan Valley Nyungah Community will actually close down once the legislation has been passed? It is a very genuine question. I have just read through the Bill and I cannot see it clearly.

Dr G.I. Gallop: We will deal with that matter when we discuss the amendment about the revocation. We are dealing with the sunset clause at the moment.

Mr M.J. BIRNEY: It is up to the Premier, but it was a genuine question.

Dr G.I. Gallop: I know it is, but we will deal with that issue when we come to that heading. I am quite happy to answer the question then. The member should look at his amendments, and raise his question when that matter is reached. I will respond then.

Dr G.I. GALLOP: I will respond to some of the points that have been made. If it makes the members of the Opposition feel good to say that the Government is insincere, and that I am insincere on this matter, then so be it. I hope it makes them feel good to say that. If it makes the Opposition feel good to say that there is some sort of hidden agenda, then so be it. The Government is serious about this issue, and it has demonstrated its credentials. I advise the member for South Perth that the pre-existing management order that is currently with the Swan Valley Nyungah Community would not come back. He can be assured that, should the sunset clause come into operation after two years, ownership and control would not revert to the Swan Valley Nyungah Community.

Mr P.G. Pendal: What is the basis for saying that?

Dr G.I. GALLOP: The Interpretation Act. I will be quite happy to go through that with the member. I am advised that, under the Interpretation Act, that would be the situation. It would not revert to the previous arrangement.

Mr P.G. Pendal: Does that refer to section 37?

Dr G.I. GALLOP: Yes; the member is spot on. To the Leader of the Opposition, who is seeking commitments on the care of the women and children, the Government gives that assurance. I did that when the legislation was introduced. I went through the details with him at the meeting we had. The Minister for Community Development also backed that up with her comments. I assure the Leader of the Opposition that the Government will consult with the indigenous community on the future use of that land. There is no hidden agenda. The land will be reserved for Aboriginal purposes, which will be worked out in consultation with the community. I will correct the Leader of the Opposition on one point. I am advised by my staff that the Leader of the Opposition received the legal advice midday on Wednesday together with an offer to receive a further briefing. The media received the advice late on Thursday for Friday's media. The notion that the media received that advice before the Leader of the Opposition is not true.

The Government is committed to the Gordon inquiry.

Ms S.E. Walker interjected.

Dr G.I. GALLOP: I have 190 per cent faith in the Minister for Community Development in the discharge of her duties. I work with her within the Government. I know what she does. I know what she says on this issue. I have absolute faith in her ability to advise the Cabinet on these matters.

The Government instigated the Gordon inquiry and has responded to it. It has provided \$75 million over four years, 25 new child protection workers, 15 new Aboriginal liaison officers, domestic violence police liaison officers in each region -

Ms S.E. Walker: Window-dressing. Are you sending any to Onslow?

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: Oh! The Government has also provided nine new multifunctional facilities in remote locations.

Several members interjected.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, members! I will have no hesitation in formally calling to order any member, on either side.

Dr G.I. GALLOP: The Government is also providing up to \$20 million over four years for flexible funding, which is being negotiated with the indigenous community. They are some of the initiatives. The Government will work with those communities. This problem will obviously not go away tomorrow. I am sure that opposition members will come into this Parliament over the next couple of years with some examples of issues. The Government will have to respond to those questions when they arise. The Opposition is playing a silly game with this legislation. The Opposition obviously has problems in its ranks on this issue; there is deep division and it is having difficulty sorting it out. That is fair enough; we understand that. However, we should get down to the nitty-gritty of this issue. The fundamental problem has not been solved, because this legislation has not passed through the Parliament. I hope we can solve it. I say to the Leader of the Opposition that the Government will look after the interests of the women and children at that camp. I explained that to him in our meeting. The Minister for Community Development explained that in the Parliament. The Government will work with each family to deal with that issue. Some services will be provided for them. The Government is working on the expectation that the word hope might come back into their lives rather than the devastation that they currently face. We should treat this issue free of the normal toing-and-froing of this Parliament. The Government has offered advice to, and consulted with, the Opposition. The Opposition has been given the Crown Solicitor's legal advice on this matter. We never received that courtesy when the Opposition was in government. There is no insincerity or hidden agenda. The Parliament of Western Australia is being given the opportunity to do something for a change about child abuse, domestic violence and the denial of human rights, which occur in our community.

Question put and passed; the Council's amendment not agreed to.

The ACTING SPEAKER: The question now is that the substituted amendment, to insert new clause 13, be agreed to.

Mr P.G. PENDAL: Firstly, I thank the Premier for the explanation he gave on why a sunset clause would not do what I feared it would do in relation to the Interpretation Act. I would like an answer to a second question. Why is the Government agreeing to a sunset clause if it will not affect either the management orders that are issued by the minister under the Land Administration Act or the revocation of those management orders? What is the purpose of providing a two-year sunset clause if it will not apply and restore those revocation orders, which is the point about which I was previously concerned? There is presumably another reason for introducing the sunset clause. For example, does it relate to the issue of natural justice, which we will deal with later, or the question of appeals? I want the Premier to put on the record why the Government has agreed not only to a sunset clause but also to double the length of the sunset clause proposed by the other House.

Dr G.I. GALLOP: The answer to that question relates to the dialogue that occurred between the member for Nedlands and I when we first discussed this Bill. This legislation proposes to give the administrator extraordinary powers in relation to this piece of land. When this Bill was first debated in this House, the member for Nedlands asked how long those powers would continue. I said that they would continue indefinitely. By introducing a sunset clause, the administrator's powers and his relationship with this block of land would not be indefinite. The Legislative Council put forward a reasonable proposition; however, the Government would like it to be a two-year sunset clause rather than a one-year sunset clause.

Amendment put and passed.

Dr G.I. GALLOP: I move -

That amendment No 2 made by the Council be not agreed to.

This amendment relates to clause 4 of the Bill. If agreed to, the management order would not be revoked. That is a basic problem for the Government. The member for Kalgoorlie will have a chance to speak on this issue. Clause 4 provides for the revocation of the current management order under which the Swan Valley Nyungah Community Aboriginal Corporation is the management body. The amendment proposed by the Legislative Council would mean that the management order would not be revoked but could be amended from time to time by the minister responsible for the Land Administration Act. This would mean that legal uncertainty would continue. In fact, there would be greater uncertainty than currently exists under the Land Administration Act. That is why the Government proposed this legislation in the first place. This amendment is not acceptable. The

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Government does not understand the reasoning behind the Legislative Council's going down this track. Revocation is the way to go because it provides for certainty on this issue. It would allow the Government to put in place an administrator, who would be in control and would have the power to remove troublemakers from the site. We could then work with individual families about their future. From the Government's point of view, this amendment would mean that the legal uncertainty would continue or increase. Therefore, it cannot support the amendment.

Mr M.J. BIRNEY: I am a little confused. When this Bill spilt over into the public arena, the debate that ensued commented on the Government's wish to close the Swan Valley Nyungah Community. I have had a relatively good look through the Bill but cannot find anything that provides for the closure of the Swan Valley Nyungah Community. The Premier indicated that clause 4 would provide for the closure of the community. However, clause 4 takes the management of the Swan Valley Nyungah Community away from the current managers and places it with the Aboriginal Affairs Planning Authority. Therefore, it follows that this Bill does not necessarily have a provision to close the Swan Valley Nyungah Community. Rather, it confers powers upon the administrator, as the Premier just said, that would permit him or her to remove troublemakers from the community. I wonder whether the Premier might tell us specifically where the closure of the community is provided for in the Bill. I can see only a provision in it for the transfer of the management of the community. I am sure I am wrong, but I am interested to know how and why the community can be closed.

Dr G.I. GALLOP: This land is currently in the control of the Swan Valley Nyungah Community through its corporation. As the member knows, the previous Government put in place that management order. The precondition for closing down the camp is to gain control over the camp. The way that can be done is through the revocation of the management order and putting in place an administrator, who, as we have indicated, can then remove the troublemakers and deal with the future of individual families. The answer to the member's question is that the legislation provides the framework to facilitate that. From our point of view, it is the only way in which we can realise that objective. The member is right: the legislation does not have that element in it, because it deals with the legal situation that would allow it to be done.

Mr M.J. BIRNEY: I thank the Premier for that explanation. Will the administrator be directly responsible to the Government and, if so, through which minister? Will the Government give instructions to the administrator to close down the Swan Valley Nyungah Community?

Dr G.I. GALLOP: I explained this the last time we debated the issue when some members raised concerns about the role of the administrator. I said then that the administrator would be under the direction of the Minister for Indigenous Affairs because that minister is the Aboriginal Affairs Planning Authority. That administrator would be accountable to the minister and the minister would be accountable to the people through this Parliament. Some concerns were raised about the administrator. The administrator is subject to that accountability.

Mr M.J. Birney: Will the administrator be subject to directions from the Minister for Indigenous Affairs?

Dr G.I. GALLOP: We will put the administrator in place to do the job that we require, which is to take the troublemakers off the site and create a situation whereby we can deal with the future of the women and children of the camp and to close down the Swan Valley Nyungah Community. I point out to members opposite who say we are not sincere - which is fair enough; that is party politics - that we have been talking to potential administrators about planning to this end. One of the points the potential administrators make is that, because they have had experience in dealing with these issues, unless they have the types of powers that this legislation would give them, they will not take on the job. An administrator in the eastern States spent all his time in court. He could not do anything because legal action was taken against him. It is important that the administrator is provided with the appropriate powers. In answer to the member for Kalgoorlie, the administrator will be accountable through the minister. The minister is the ultimate authority and will set up an arrangement with the administrator about what must be done. We aim to close down the community and to have that land used for Aboriginal purposes other than the purposes for which the Swan Valley Nyungah Community currently uses it.

Mr M.J. BIRNEY: By interjection, will the Premier tell me whether the administrator will be subject to direction from the Minister for Indigenous Affairs? If so, will the Minister for Indigenous Affairs direct the administrator to close down the Swan Valley Nyungah Community.

Dr G.I. GALLOP: Obviously, we want the administrator to enter into a contract to do a job. That contract would need to clearly outline the nature of the job. We would expect the administrator to administer the land in the same way a statutory authority is administered. Ultimately, if the administrator does not act according to the contract, the minister could take action. It is not intended that the minister would operate the day-to-day affairs. If that were our intention, we would not have included the administrator in the legislation. The idea is to devolve that power to the administrator to carry out that function.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr J.H.D. DAY: This debate is primarily about protecting children, women and other vulnerable people in the Swan Valley Nyungah Community. The only debate is about how that can best be done. There is no argument that it is not necessary. Many people in the community and in the Opposition have raised serious concerns about whether that will be best achieved by breaking up the community and dispersing it elsewhere as opposed to removing the alleged offenders from the site. The Government must consider a range of issues, which I hope it has thought about. A constituent, who has detailed knowledge of the site, has asked me to raise the issue of what will happen to the animals that belong to the families on the site. I understand that about 20 or 25 dogs live on the site. I am advised that they are well looked after and have been sterilised and so on. What assurance will the Premier give that the animals, particularly the dogs present on the site and which are part of the overall community, will be provided for? Will they be provided with appropriate accommodation or will they be able to remain with the families they are used to being a part of? Will the Premier give an assurance that they will be properly looked after?

Dr G.I. GALLOP: Does the member have any Homeswest units in his electorate.

Mr J.H.D. Day: A few.

Dr G.I. GALLOP: The member knows that the housing authorities deal with those issues daily. The matter would be dealt with under that basis. Also, the Dog Act regulates the responsibilities people have for their dogs. A mixture of the Dog Act plus the usual processes of dealing with family pets is the basis upon which this issue will be dealt.

Mr J.H.D. DAY: That does not reassure me. Those provisions are in place. However, in effect, the Premier is saying that people will be removed from the site and will most likely be placed in Homeswest accommodation, in which they do not currently live. Therefore, the Premier is implying that they will not be able to continue to keep their dogs. No-one has suggested that somebody should live in a Homeswest residence and be allowed to own five dogs or whatever. However, some appropriate, compassionate, decent and humane arrangements must be put in place to look after the animals properly but which also take into account the sensitivities and needs of the families in which the animals have been housed and have grown up. The Premier should not dismiss the issue in the way he just did.

Dr G.I. GALLOP: I am not being dismissive. My point is that the State Government's housing authorities and private tenancies deal with this issue daily. The matter will be dealt with sensitively. That is the point I was making. The member must acknowledge that the issue of who owns each animal and how they are dealt with is very particular. I can tell the member only that the matter will be dealt with sensitively, as it is every day of the week.

Mr M.J. BIRNEY: I do not want to labour this point; however, the Premier said he intended to close down the Swan Valley Nyungah Community after the passage of this legislation under powers of the administrator. The powers of the administrator are clearly set out in clause 7.

Dr G.I. Gallop: We are revoking the management order. Therefore, the Swan Valley Nyungah Community will no longer have control over that land.

Mr M.J. BIRNEY: That is right; the administrator will have control over it. It is the Premier's view that the administrator will close down the community under his direction. The powers of the administrator are clear. They are set out in clause 7 and refer to the authority of the administrator to direct a person not to enter the reserve. It also refers to the removal of people from the reserve and those sorts of things. The clause does not say that the administrator has the power to close down the reserve. Clause 5(1) states -

The care, control and management of the reserve are, by force of this Act, placed with the Authority for the same purpose as that for which the relevant Crown land is reserved . . .

I cannot see how the Premier can close down the community. The administrator's role is set out clearly and does not include a provision for closing down the community. Clause 5 says that the land must be kept for the same purposes of the current reserve.

Sitting suspended from 6.00 to 7.00 pm

Mrs C.L. EDWARDES: Before the dinner suspension the Premier was about to respond to the issue raised by the member for Kalgoorlie with regard to the management order and any direction that the administrator may or may not receive about the closure of the camp.

Dr G.I. GALLOP: I was simply making the point to the member for Kalgoorlie that the Swan Valley Nyungah Community exists because of the management order that has been made. Our legislation seeks to revoke that

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

management order. However, as a result of the amendments that were made by the Legislative Council, that situation has been changed. We find that unacceptable. If we are to close down the Swan Valley Nyungah Community we have to take away the legal authority that exists for people to be on that land, and of course that is provided by the management order. That is precisely why we intend to revoke the management order.

Mrs C.L. EDWARDES: To some extent we are dealing also with amendment No 3, because amendments Nos 2 and 3 are linked, so I will deal with them together, if I may. The Premier has indicated that according to the legal advice that has been received in respect of amendments Nos 2 and 3, we will have greater uncertainty if we go down this path as opposed to using the current power of the minister to revoke the legislation. As Hon Peter Foss said in the Legislative Council, because the minister currently has the power to revoke the management order, the Government does not need to enact legislation; and that is, in fact, the effect of this amendment. Why will there be greater uncertainty because of these amendments, when all that these amendments will do is put the Government back into the same position that it would be in if we did not have clause 4 in any event? The reason that the Premier has given for going down the path of legislation and revocation is that the Government does not want to have that challenged in the courts. What would have been the basis for challenging the revocation of an order made under the Land Administration Act if the minister had proceeded down that path?

Dr G.I. GALLOP: As I think I indicated when we first debated this matter, the Government could have proceeded down the path provided by the Land Administration Act. We could have argued that the management order is not being carried out properly, or alternatively we could have argued that the revocation is in the public interest. Although we believe there are sound arguments for both of those propositions, those propositions could have been challenged and we could then have gotten into a situation of lengthy legal argument. We acknowledge that we have chosen an extraordinary method to achieve this end, but we believe it is based on a good understanding of the realities of the situation and of what we need to do to deal with situations in which tyranny prevails in a particular organisation. That is basically the reason that we have chosen the legislative route as opposed to the alternative. We acknowledge that this is extraordinary and is not something that we would do in the Parliament every day of the week in respect of management orders over blocks of land in Western Australia. However, in this case we believe it is the right way to go.

Mrs C.L. EDWARDES: For what reasons did the Minister for Planning and Infrastructure not want to go down the path of revocation without legislative backing? Was it because the management order that was in place from September-October last year had not been given sufficient time to be worked through? Was it because the draft management plan that was submitted and that was agreed to by the departmental heads was not sufficient to meet the needs that were outlined in the Gordon inquiry? Was it because the departments felt that they could not work with the leaders at the camp to put in place a proper management plan? Was it because the Government did not think it could go back to the Aboriginal community and say this plan is no good and it wants it to do this, that and the other? As the Premier acknowledged on the last occasion that we debated this matter, none of the agencies has actually raised with the Aboriginal community the concerns that the departmental heads have raised with him. My concern is that the Premier has not given sufficient natural justice to this Aboriginal community at this time. Therefore, I want to know for which of those reasons was it decided not to go down that path.

Dr G.I. GALLOP: The answer is twofold. First, the attitude that was being expressed by the Swan Valley Nyungah Community leadership was hostile, and that meant that regardless of what the rules were - and of course they had changed as a result of the actions of the Minister for Planning and Infrastructure - the spirit of those rules would not have been taken into account in respect of individual presentations of government officers at that site. That was a very important consideration. Secondly, we had to deal with the ongoing complaints that were coming forward. I have mentioned that there have been 10 complaints. Each of those complaints related to people who gave this camp as their address. We had to deal with that issue as well. The attitude that the community was showing and the ongoing concerns that we had meant that revocation was the way forward. If we had had revocation without legislation, experience indicates that that could have been a very lengthy and complex process and would not have delivered the results that we wanted; or even if it could have delivered the results that we wanted it would have taken a long time to do it.

Ms S.E. WALKER: I understand what the Premier means about the attitude being hostile. He said that there were ongoing complaints and that there were 10 complaints. That is more information than the Premier gave us last time. I am not trying to catch out the Premier. What sorts of complaints were they? Will the Premier give us some detail of those complaints?

Dr G.I. GALLOP: I will deal with what happened post-Gordon inquiry. In December 2002, the Department for Community Development visited the camp. It was allowed to enter, but controls were put in place about where a child was to be interviewed and who would be present. The child was interviewed in an open space. That was a most inadequate situation in terms of privacy and getting out the truth. In March 2003, the Crisis Care Unit was

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

contacted by the camp about a domestic violence incident. In April 2003, the police picked up a young person. They were concerned about returning that person to the camp. There was a suspected problem of drug taking. In April 2003, a 13-year-old female was removed from the camp. Allegations regarding safety were involved. In April 2003, a young person sought help to escape from the camp. In March 2003, two people indicated concern for their safety. In March 2003, allegations of substance abuse were presented to the department. In March 2003, the police reported young persons sleeping in the parks, and substance abuse was an aspect of it. In March 2003, there were allegations of domestic violence, and the police removed a person. In November 2002, a family was subjected to abuse, and again in November a similar allegation was brought forward. They are the sorts of allegations that were coming forward. As the member knows, there will soon be an inquest in the Coroner's Court into the death of one of the former residents of that camp. I believe the member would have read in the media of the case of the young woman who is currently being protected because of the intimidation that emanates from people at that camp.

Dr J.M. WOOLLARD: Do the complaints that the Premier has received about the camp apply to both sexes, because in the House today we have heard only about complaints in relation to the women and the girls; we have not heard anything about the boys?

Dr G.I. GALLOP: As I am advised, the complaints relate to young people, be they young men, young women or children, and they also relate to women. Young men and young women have been subjected to abuse, and allegations have come forward following that.

Mrs C.L. EDWARDES: Before I ask my question, I want to correct a name I mentioned. Earlier I referred to a member in the other place making a comment to Hon Norman Moore. I said it was Hon Tom Stephens when in fact it was Hon Kim Chance. I checked the *Hansard*, and I apologise to Hon Tom Stephens.

Issues were raised in the Legislative Council about the flaws in the legislation that had been identified in a legal sense, and a number of matters were referred to earlier by the Leader of the Opposition. Has the Premier sought legal advice about whether these clauses, if not the Bill as a whole, contravene the federal discrimination legislation?

Dr G.I. GALLOP: That issue has been raised, and we have sought advice on it. Of course, we can never say that someone will not submit such a claim to the courts. However, the judgment of the Government is that this legislation is not racially discriminatory. As the member knows, we are dealing with the interests of women and children. We are preserving the land for Aboriginal purposes. In no way, shape or form does our legislation affect any native title right that may or may not exist in respect of the land. Therefore, from our point of view, nothing could lead to a claim of racial discrimination. However, we cannot guarantee that someone would not bring forward such a case.

Mr C.J. BARNETT: I do not think it is a point of native title; it is to do with the Racial Discrimination Act - federal law. It is nothing to do with native title at all.

Dr G.I. Gallop: As you would know only too well, given that you were in a Government that passed racially discriminatory legislation, the native title approach of your Government, when you were in power, was challenged in the courts and found to be racially discriminatory by the High Court. This does not affect native title.

Mr C.J. BARNETT: No, so why did the Premier raise native title?

Dr G.I. Gallop: Because it is a racial issue.

Mr C.J. BARNETT: No, there is a thing called the commonwealth Racial Discrimination Act.

Dr G.I. Gallop: That is right. If someone were discriminated against on the basis of his right to land, that person would be subject to the commonwealth Racial Discrimination Act. However, we are not doing that in this legislation.

Mr C.J. BARNETT: Hang on. The Government is passing legislation that specifically takes away people's rights in respect of that land, and the criterion is one of race. I am not saying that is the intent.

Dr G.I. Gallop: It is not the intent.

Mr C.J. BARNETT: The Premier can listen. I am not saying that is the intent. The people in that community happen to be Aboriginal; they have dark skins. They will have lost their rights. The application of this is racially based. There are many other examples of abuse of children, often within the one family. If, for example, the Premier were made aware of a case in which a white father was abusing, say, his daughter, would he confiscate the property? No. The Premier should not shake his head.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. Gallop: You are missing the point.

Mr C.J. BARNETT: No, I am not missing the point at all. The problem the Premier faces under the Racial Discrimination Act is that he has legislated in this way in relation to an Aboriginal community, and on any test of consistency he will not find a precedent or an example anywhere of similar legislation against anyone else who is guilty or accused of the same offences.

Dr G.I. Gallop: Can I interject?

Mr C.J. BARNETT: No, the Premier cannot. As horrendous as the abuse of and the crimes against children are - there is no dispute about that - in this case legislation against an Aboriginal community is to be put in place that has not been put in place against other individuals, institutions or organisations, when again there have been examples of abuse of children.

Dr G.I. Gallop: You are inconsistent.

Mr C.J. BARNETT: The Premier can get up in a minute.

Dr G.I. Gallop: I like a bit of debate.

Mr C.J. BARNETT: The Premier can get up and debate it in a minute. I am not arguing the point. My point is simply that this action against the abuse of children has one thing that distinguishes it from any other action against the abuse of children, and that is a racial connotation, because it happens to be an Aboriginal community. The Premier cannot produce examples of similar action being taken against any other institution or individual. The point I am making - I am not arguing it - is that that is why the Premier is prone to attack under the Racial Discrimination Act, and that is the flaw in the legal process he has gone through. That is the point.

Dr G.I. GALLOP: No, the Leader of the Opposition is totally wrong in his argument. He came into this Parliament earlier and asked why I did not go down the path of seeking to revoke the order itself, without resorting to legislation. By the Leader of the Opposition's logic, that would be a racially discriminatory thing to do. By his logic, every time an Aboriginal person is evicted from a home because of bad behaviour, that would be racially discriminatory. I believe the Leader of the Opposition's argument is flawed.

Mr C.J. Barnett: You revoke the order because it is not complied with. That is not discriminatory.

Dr G.I. GALLOP: The Leader of the Opposition's argument is flawed. We are dealing with the rights and interests of women and children. It is a complete red herring for people to raise the issue of racial discrimination in respect of what we are trying to do. It is like someone raising that issue when Homeswest, according to its own rules, evicts someone who has behaved badly and does not fit the requirements of the tenancy he has. It can occur in many different situations in our society. It is a complete red herring to raise the issue of racial discrimination. We are protecting the interests of the women and children.

Mr C.J. Barnett: That is not what the members of the community are saying.

Dr G.I. GALLOP: I will respond to that interjection. That is not the case. We have strong support from the community. The Aboriginal and Torres Strait Islander Commission has made it very clear that it does not see this as a racial issue.

Mrs C.L. EDWARDES: I am sure the Premier recognises that some Aboriginal members of the community support this legislation. There are also some members of the Aboriginal community outside the Swan Valley community who do not support this legislation. Therefore, there are very mixed views within the Aboriginal community itself.

Dr G.I. Gallop: Overwhelming support.

Mrs C.L. EDWARDES: I do not think the Premier can say that unless he has taken a referendum of them.

Several members interjected.

The ACTING SPEAKER (Mr A.D. McRae): I call the Leader of the Opposition to order for the first time. It is absolutely okay in the course of consideration in detail for members to have some interaction with their comments and the intent that they are pursuing. However, it is not okay to have a four-way slanging match, such as that which has just erupted. If members manage the debate themselves, I will not have to get to my feet.

Mrs C.L. EDWARDES: Earlier I raised the issue of whether legal advice had been sought about whether this amendment and/or the legislation itself might infringe the federal Racial Discrimination Act. In response, the Premier said that it does not deal with native title and that Homeswest does it every day. If that argument were followed, it also would be discriminatory if the Minister for Planning and Infrastructure had revoked the

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

management order under the Land Administration Act. That is simply not the case. There are certain circumstances under which the management order can be revoked under section 50 of the Land Administration Act. The reason the Government has brought forward this legislation is that it does not want to go back to the court and have it challenged; that is, for noncompliance with the management order, no consent or the various other provisions within section 50. Therefore, there would be an opportunity to challenge the revocation order in the court. That is the reason the Government has brought this forward. It could be interpreted then as discrimination; that is, it does not give that Aboriginal community the opportunity to question or even challenge the Government on that revocation order. If we add to that the fact that the Government appointed an administrator who could toss people off the land without question, without the opportunity for natural justice and without the opportunity of judicial review, in its entirety we might find a totally different scenario. That is a totally different issue from Homeswest evicting people on a daily basis. People have an opportunity to question eviction orders. We are putting forward an entirely different scenario in this legislation. I am not arguing that this legislation is or is not contrary to the federal Racial Discrimination Act. I am saying, though, that members in the Legislative Council have identified some very serious flaws in this legislation. One of the flaws may very well be that it infringes the federal Racial Discrimination Act. The question I asked was whether the Government has sought legal advice on whether this Bill infringes the federal Racial Discrimination Act.

Dr G.I. GALLOP: As I said, we discussed this matter with our legal advisers and their view was that the legislation would not be subject to a successful case on racial discrimination grounds. We cannot say that someone will not come forward and do such a thing. However, I will take members back to the issue. The issue is: will we or will we not deal with this issue; and, if we will, what course of action will we take? Either we want to close down the camp or we do not. If we want to close down the camp, we must look at all the implications of that, we will have to make a judgment about the sort of people we are dealing with and we either have to be serious or not. Members opposite can argue these points. I suppose it is the role of the Opposition to argue these points. I strongly urge members -

Mr P.G. Pendal: What do you mean you "suppose" it is?

Dr G.I. GALLOP: I think that it is also the role of Parliament to protect women and children, but I suppose I am a bit silly thinking that! Some members of the Opposition, the Greens (WA) and some Liberal members in the Legislative Council have acted in a way that has given tremendous support to the Swan Valley Nyungah Community. It has legitimised that community. It has made it harder for us to deal with this issue. That is their choice; that is their decision. They can do that. However, I come back to the reality - either we are serious or we are not. Members opposite can argue the legal niceties. We cannot guarantee that no-one will take up a case. We will never know how a case will go in the courts. However, this legislation is not motivated by racial prejudice. This legislation is motivated by -

Mr C.J. Barnett: I never said that it was.

Dr G.I. GALLOP: Why, then, is the Leader of the Opposition raising the issue?

Mr C.J. Barnett: We pointed out the fallibility of the legislation and that it may fall foul of the commonwealth Racial Discrimination Act. We are asking you whether you took that into account in drafting it.

Dr G.I. GALLOP: I have said that we did take it into account. Of course we took it into account.

Mr C.J. Barnett: You just implied that you did not, because if you had, you would not have drafted the Bill in this way.

Dr G.I. GALLOP: That is the sort of comment we might expect from the Leader of the Opposition. We know exactly why we drafted the Bill in this way - to deal with the issue. We need to deal with this issue once and for all as a community. Unless we do, we will be letting down a lot of people.

Dr J.M. WOOLLARD: In relation to this clause and the length of time, the Premier has stated in the House today that there is no hidden agenda behind this Bill. When this Bill was put on the Table three weeks ago, it had the support of the House because it was seen to address the concern for the women and children in the Swan Valley Nyungah Community. People believe there is a hidden agenda, but I do not see where the Bill states that the land will be retained by the Aboriginal community. Although the Premier has stated that in the House, where is that guarantee provided within the Bill? I know that in the past what has been said during debate has not necessarily applied after an Act has come into operation. I would appreciate it if the Premier could assure me that the land will be retained by the Aboriginal community.

Dr G.I. GALLOP: Even though that does not come under this clause, I refer the member for Alfred Cove to clause 5(1), which states -

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

The care, control and management of the reserve are, by force of this Act, placed with the Authority for the same purpose as that for which the relevant Crown land is reserved and for purposes ancillary or beneficial to that purpose.

Those purposes are Aboriginal purposes. The member can be assured that that is not just our aim; it is preserved by the legislation that that land will be used for Aboriginal purposes.

Mr C.J. BARNETT: This amendment effectively relates to the revocation of the management order. I am curious about the process that has taken place within government. Neither the Minister for Indigenous Affairs nor the Minister for Community Development has visited the camp. That is a fact.

Dr G.I. Gallop: It is neither here nor there.

Mr C.J. BARNETT: The Premier might say that, but I think it is relevant. I expect that the minister with prime responsibility for Aboriginal affairs -

Dr G.I. Gallop: Do you think the Minister for Police should visit the Coffin Cheaters? Get real!

Mr C.J. BARNETT: I think the minister with carriage of indigenous affairs in this State should have visited the community -

Mr A.J. Carpenter: Why - to legitimise the criminal activity that is going on there?

Mr C.J. BARNETT: No.

Mr A.J. Carpenter interjected.

Mr C.J. BARNETT: It is about doing the job.

Mr A.J. Carpenter: The Leader of the Opposition would not know because he has never actually done it.

Mr C.J. BARNETT: Some parts of the job are easy and joyful and some parts are hard. The job of a minister is to get involved - whether it be pleasant or unpleasant - and deal with the issue. The Minister for Community Development has particular responsibility for the protection of children in this State. If the issue is the horrendous abuse of children, the Minister for Community Development should have found the time to visit the community and talk to people.

Mr A.J. Carpenter: You have no idea what you are talking about.

Mr C.J. BARNETT: The minister may say that. I put on record that we did not expect the answers we received today. I did not expect to hear that neither the Minister for Indigenous Affairs nor the Minister for Community Development had visited or talked to the community over a 12-month period. Although they are the two ministers with prime responsibility for these issues, there is a third minister. It is the Minister for Planning and Infrastructure.

Mr A.J. Carpenter: Why not the Attorney General or the Ministers for Police or Health?

Mr C.J. BARNETT: I am talking about the issue in this Bill. The issue in this Bill relates to a management order.

Mr A.J. Carpenter interjected.

The ACTING SPEAKER (Mr A.D. McRae): Minister for Indigenous Affairs!

Mr P.G. Pandal: We cannot hear you, Mr Acting Speaker.

The ACTING SPEAKER: Order! If the member for South Perth wishes to make a point of order, he should stand up and draw my attention and I will listen to him. He must not interject and suggest sotto voce that I should be taking some action.

Mr P.G. Pandal interjected.

The ACTING SPEAKER: Order! I call the member for South Perth to order for the first time.

Mr C.J. BARNETT: Under the structure of the reserve it is a fact that the Minister for Planning and Infrastructure agreed to the management order that applies to the Swan Valley Nyungah Community. She did so as recently as October 2002. In agreeing to the management order, did the Minister for Planning and Infrastructure consult with the Minister for Indigenous Affairs, the Minister for Community Development or the Premier? It was not very long ago; it was only six months ago. A senior minister of the Government agreed to the terms of the management order. I do not necessarily criticise that decision but I do criticise the fact that we have this Bill before the Parliament to revoke the management order agreed to by a senior minister six months

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

ago. I pose the question: why did the Minister for Planning and Infrastructure not revoke the management order, for which she had the power? If there was concern about the legality of that and court challenges, why did the Government not do that first and, if necessary, introduce a Bill to confirm those actions? Why did the Government leave it up to the Parliament to do something that the Minister for Indigenous Affairs, the Minister for Community Development and the Minister for Planning and Infrastructure were not prepared to do in their ministerial roles?

Dr G.I. GALLOP: The Leader of the Opposition must have missed the initial debate because I explained that the Gordon inquiry recommended a new memorandum of understanding with the community. The Government took on board that recommendation. The Minister for Planning and Infrastructure had the responsibility to carry it through. In fact, she visited the camp at the time to try to put the management order in place. Does the Leader of the Opposition know what happened? It became very obvious to us that our best efforts made absolutely no difference to the attitude of the people at the camp. It made no difference to the potential risk to the women and children at the camp. That is when the Government decided to go down this route.

Mr C.J. BARNETT: The Minister for Planning and Infrastructure should have revoked the order first. Why did she not accept her responsibility as a minister to revoke it? Three ministers have dodged their responsibilities, refused to act as ministers, and, to coin the expression of one of my upper House colleagues, left it to the Parliament to do the dirty work the ministers would not do themselves.

Dr G.I. Gallop: That is ridiculous.

Mr C.J. BARNETT: The Premier might say that but ministers get paid a lot of money to do a job. Some of the job is hard. If the Government formed the decision that the camp had to be closed and the management order had to be revoked, the ministers and the Premier had a clear responsibility to act as ministers and revoke the management order. If there was an issue of legal challenge, they would have been on far firmer ground to bring a Bill before the Parliament to confirm the action instead of taking action ahead of any action by the Minister for Planning and Infrastructure. Where is the minister? She is missing in action. The Premier may laugh and snigger. It is all he does. He does not answer the question. He has two ministers with prime responsibility who have not visited the camp.

Mr R.C. Kucera interjected.

The ACTING SPEAKER: Order, Minister for Health!

Mr C.J. BARNETT: The Premier has another minister who, almost tangentially to her ministerial responsibility -

Mr A.J. Carpenter interjected.

The ACTING SPEAKER: Order! I call the Minister for Indigenous Affairs to order for the first time.

Mr C.J. BARNETT: The Minister for Planning and Infrastructure happens - almost tangentially - to administer the reserve. It is not her policy role; she does not have one in indigenous affairs or in the abuse of children. Because of the way the Land Administration Act is structured, responsibility falls to her. I would have thought she would have sought advice. If the view in government was that certain conduct and behaviour was unacceptable and the management order should be revoked, she should have done that at a minimum. She should not have shirked her ministerial responsibility. If there was further legal doubt, she should have run the gauntlet of bringing it to Parliament to confirm her actions. She failed to act. I do not criticise her personally for that. I criticise the two ministers sitting opposite for failing as ministers within Cabinet to act. It is all very well for the Premier to sit back, throw the matter to Parliament, and cry foul when it runs foul. That is what has happened. The Premier has effectively handed over the administration of the Swan Valley Nyungah Community to the Opposition in the upper House for three weeks. It may have been resurrected today, but by no means has the Government received any credit by its actions.

Dr G.I. GALLOP: When my Government decided to go to the Parliament rather than pursue the revocation of the management order through the administrative processes of the Land Administration Act, it made the assumption that there would be some goodwill from the other side on this major issue of public policy. Despite all the argy-bargy in the Parliament let us hope that it will remain a valid assumption.

Dr J.M. WOOLLARD: When this Bill was first introduced, the Premier stated that the Government had done so in consultation with the Aboriginal and Torres Strait Islander Commission. Will the Premier elaborate on how ATSIC sees this Bill being used to assist it and the Government in other areas that may be subject to similar complaints?

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: I believe the member for Ningaloo raised this in the debate last time. The Swan Valley Nyungah Community has been the subject of a lot of controversy for a long time. Five deaths are associated with the camp. There have been two inquiries and one inquest. Another inquest is on the way. This legislation deals with that camp. I explained what the Government is doing in response to the Gordon inquiry in other parts of the State. I had a very good meeting last week in Kalumburu with the local community. We discussed the police presence that will go to that location under my Government. It will allow people in that community to deal with some of these issues. This is being done throughout Western Australia. Communities are telling the Government that they want a police presence to deal with their law and order problems. It is a bit rich for the Opposition to criticise the Government on this issue. The Government consulted with ATSIC. The Leader of the Opposition would have heard the comments of its representatives in Western Australia. They go like this: firstly, they will now stand up and fight against child abuse and violence against women in Aboriginal communities. They have joined with the Government to that end. Secondly, they made it clear that they did not view this legislation as being racially motivated, but rather as defending the rights of women and children. Thirdly, they went to the Liberal Party and the Greens (WA) and made it clear that they supported this measure. They have been very vocal, and it is wonderful that this sea change of opinion has occurred in the Western Australian Aboriginal leadership, to fight against these issues rather than accept them. In the past, whenever anyone raised them, they were accused of racism, but now the Aboriginal community is saying that it is not about race, but about protecting people. There are some excellent leaders out there now willing to accept their responsibilities, and they have come in behind the Government on this matter. We consulted with them, because we thought it was important that they knew what we were doing.

Mr P.D. Omodei: Did you consult with them while you were in Malaysia? Why did you not call Parliament back?

Dr G.I. GALLOP: That was a very poor interjection, and I am very disappointed the member for Warren-Blackwood made it. Last week I was proud to open a lecture theatre at a Western Australian university's campus at Miri in Sarawak. I named the lecture theatre after Harry Perkins. When the deputy chief minister spoke about Harry Perkins, he had a tear in his eye. I was proud to be there to recognise a great Western Australian. That was a very poor interjection by the member for Warren-Blackwood.

Dr J.M. WOOLLARD: This is my final question to the Premier on this Bill. Although this Bill identifies and deals with a problem in the Swan Valley Nyungah Community, if there are problems in other areas, will the Parliament go through similar debates to this one in six or 12 weeks for other areas? Did the Government and ATSIC consider that issue? I would have thought it more appropriate to have more general legislation if there is a problem that is not applicable to just one community.

Dr G.I. GALLOP: The Government has begun a very long and complex process of dealing with child abuse in Aboriginal communities. It has committed \$75 million over four years. It is working with each community. Each community has a different range of problems. We are trying to get safe houses in place and we are upgrading the violence unit at Princess Margaret Hospital for Children, which refers victims and their families. We are working with indigenous communities to come up with new ways of dealing with some of the causes of these problems. This year at the public sector management awards, the Premier's award for the best public sector initiative was won by the Department of Indigenous Affairs, for preparing a video to educate indigenous people about these issues, in a style and a language the community would understand. This will be a long and complex process, but the Government is going through it systematically and putting the money in place to do it.

The concept of a right cannot be considered independently of the concept of a responsibility. It makes no sense to give anyone a right unless it is accompanied by responsibility. We cannot expect people to be responsible if we do not give them rights, and at the same time we cannot confer rights without responsibilities. The previous Government allowed the Swan Valley Nyungah Community to manage this land, but it was not an open-ended offer. Responsibilities went with it, to make sure that a proper management structure was in place, and that the women and children there could realise their full potential. Five deaths have occurred, which is extraordinary. The Leader of the Opposition shares the concern about that. It was a State Government decision to allocate the management of a particular piece of land to a group. The group was given that land on the basis that it would care for it properly, and care for the people who lived there. The Minister for Indigenous Affairs has said that it has been a failed experiment. The Government must come to grips with that and move on.

Mr J.H.D. DAY: No-one seriously challenges the desire of the Premier or the Government to protect women and children at the Swan Valley community, or anywhere else for that matter. Equally, no-one on the government side should question the desire of the Opposition to do exactly the same. The only debate is about how best to do it. The Government has made a decision for reasons that are not fully explained. I seek an

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

explanation of why it is necessary to move everybody out of that camp - both the suspected offenders and the women and children. There is no debate that the suspected wrongdoers should be removed. The Opposition has agreed with that all along. That was the effect of the Legislative Council's amendments, and would still be able to be achieved. However, we have not had a good explanation so far of the reasons it is necessary also to remove, in a short space of time, all the other residents of the site. It is a crucial issue. As I understand it, police and Department for Community Development staff have concerns about the community being broken up, and the fact that stability will not be provided for families if they are all moved out in the near future. Further, as I understand it, the police and Department for Community Development staff would prefer to have the ability to investigate suspected allegations of criminality with the innocent people still in their home environment. The Government has made a decision that everybody will be moved out, and seems to threaten the ability of the police and DCD staff to adequately investigate serious matters. Can the Premier provide a good explanation of why it is necessary to move everybody out in a short space of time? It seems to be counter to their best interests, based on much of the information we have been given.

Dr G.I. GALLOP: First, on no occasion has the Government used the term "in a short space of time". We have said that we will be sensitive to the needs of the people concerned. A sunset clause that limits the legislation to two years has already been passed. We will be working with the individual families to meet their needs. I made this point last time: the Government will not push people out on the street. We will work with those families, but the troublemakers will be removed from the site. The Government has made that very clear. The assumption of the member for Darling Range about the time frame is wrong.

Mr J.H.D. Day: What is the Government's time frame?

Dr G.I. GALLOP: It will be as long as it takes to deal with the interests of those people. We cannot put time frames around this issue in a way that treats people in an arbitrary fashion. They should be treated according to their needs and interests. I found the member's second point a bit strange. I thought he might have been saying - I hope he was not - that it is much better to have all these people on the one site because it would be easier for us to police the problem.

Mr J.H.D. Day: I was not saying that.

Dr G.I. GALLOP: What was the member saying?

Mr J.H.D. Day: I was saying that no-one doubts that the wrongdoers should be removed forthwith, but there is an argument that the other people - women and children in particular - should be able to stay on the site for a longer time, so that they can be stabilised with the assistance of DCD employees and police, and so that serious concerns can be properly investigated.

Dr G.I. GALLOP: That is exactly what I said in the first part of my answer to the member's question. As to the second point, we do need to close the camp. It has failed; let us be honest about that. It is a failed social experiment; it cannot deliver.

Mr M.J. Birney interjected.

Dr G.I. GALLOP: I have answered that question.

Mr M.J. Birney: What was the answer?

Dr G.I. GALLOP: The answer was that we are going to work with all of the communities throughout Western Australia. I was in Kalumburu last week and I have explained that the community will see a police presence for the first time and that police presence will be available to assist in dealing with law and order problems. We will work with communities all over the State, according to their needs and interests. This issue has been on the agenda for a long time. It is not as though we have suddenly come into the Parliament and said there is a problem at the Swan Valley Nyungah Community. This issue has been around for a long time; there have been two inquiries, one inquest and another inquest is on the way. It has not emerged all of a sudden. Our view is that it is in the interests of the people of Western Australia to break up the power structure at that community. We make no apology for that; that is what we are doing. We are doing it because it is in the interests of the people. Sometimes those things must be done.

Mr J.H.D. DAY: I thank the Premier for his response. It raises the question about how similar problems at other locations will be dealt with, whether at Cullacabardee Village community or at other communities around the State. If this is a problem at the Swan Valley Nyungah Community - there may be a bigger problem there than elsewhere, but nevertheless there is a strong and informed view that the problem exists to a greater or lesser extent at other sites in Western Australia - how does the Government propose to deal with similar problems elsewhere? Does it propose to close similar communities?

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: The fundamental difference is that the women and also the leaders of Aboriginal communities throughout Western Australia today want to work with us to solve this problem. What response did we get at the Swan Valley Nyungah Community? Totally the opposite. Not only did that community not want to work with us to solve this problem, but also it was hostile towards our efforts to get to the truth of what has been going on. That is the fundamental difference between this community and others. During my visit to Kalumburu we sat around the table with the leadership and talked about how to deal with the endemic problems they have as a community. They have a law and order problem and a problem with their young people and substance abuse, but they are very keen to work on those issues. That is the difference between the Swan Valley community and other Aboriginal communities throughout the State.

Dr J.M. WOOLLARD: The Government will work with each community and will target the problems within each community. When the Government and the Aboriginal and Torres Strait Islander Commission work together with these communities, it will be able to use this Bill -

Dr G.I. Gallop: No. This Bill is just to do with the Swan Valley Nyungah land.

Dr J.M. WOOLLARD: Would ATSIC and the Government not be able to say that if there were a problem in this community -

Dr G.I. Gallop: It just deals with reserve No 43131.

Dr J.M. WOOLLARD: This Bill specifically identifies reserve No 43131, but if problems arose in other parts of the State the Government and ATSIC could say that the communities will work with the Government and ATSIC to resolve the problem or another Bill will be presented to Parliament, although it need not be an identical Bill.

Dr G.I. Gallop: I made this point very clear on some of the radio interviews that I gave. This Bill is not intended to be a threat to Aboriginal communities in Western Australia; it deals with a specific issue at a specific location. We are very confident we can work with Aboriginal communities. This is extraordinary legislation - we know it is - and that is why we have agreed with the concept of the sunset clause, but it deals specifically with this issue. We are very keen to work with Aboriginal communities throughout the State to solve this issue. We believe we need more policing - to use that expression - either by child protection workers or the police, but there is a different attitude in other communities. In the Swan Valley community we just have hostility and we have seen the evidence of all of the problems I have referred to.

Mr C.J. BARNETT: Has the Government been advised either by the Department for Community Development or the Department of Indigenous Affairs that of the approximately 40 such Aboriginal communities, at least 10 have comparable problems of abuse and violence with children?

Dr G.I. GALLOP: I could go back to the Gordon inquiry and check. The Gordon inquiry found there were problems throughout Western Australia; that is why we initiated that inquiry. As I said, the response we are getting throughout Western Australia to the Gordon inquiry is very positive, and this has allowed us to proceed to introduce the measures we are talking about to deal with the problems in those communities in different ways. There is no doubt that there will be extra policing and extra work for the child protection workers; we must have more safe houses for people and all of those sorts of things. However, the real difference with the Swan Valley Nyungah Community has been the attitude of the people there, the power structure, the way that has led to the sort of intimidation we have seen, the threats that exist to individuals and, to come back to it, the overpowering evidence of continuing abuse which we as a Government and a Parliament have to deal with.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: The next two amendments deal with exactly the same issues. I do not know whether members wish to raise any questions, but perhaps we could move those two amendments together.

Mr C.J. BARNETT: The agreement was to deal with them individually.

The ACTING SPEAKER (Mr A.D. McRae): Leave is not granted.

Dr G.I. GALLOP: I move -

That amendment No 3 made by the Council be not agreed to.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 4 made by the Council be not agreed to.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 5 made by the Council be not agreed to.

Mr C.J. BARNETT: Amendment No 5 relates to a new clause 5. Clause 5 of the Bill places the care, control and management of the reserve with the Aboriginal Affairs Planning Authority and sets out how the reserve may be dealt with. The effect of clause 5 of the Bill, as it was, is that the reserve can be dealt with under the Land Administration Act in the same way as any other reserve or management order created in the normal way. The amendment in the upper House was to delete that clause on the basis that it would deny normal rights to apply and, if the amendments to clause 4 moved in the upper House were agreed to, it would become superfluous.

While this Bill will be passed, I am still not convinced that we as a Parliament are doing the right thing. I wonder who will have the most egg on his face if this Bill is ultimately thrown out by the High Court - whether it will be me or the Premier. If this Bill is eventually ruled out of order by some process in the High Court - maybe because it contravenes the Racial Discrimination Act, which is probably the most likely outcome - it will be a very poor day for this Parliament and a very poor reflection on the Premier's ability to manage a difficult social issue. At no stage has anyone in either House of Parliament belittled or demeaned the extent of the issue.

Dr G.I. Gallop: That is not true. In the upper House there were certainly members who said that the Government was not telling the truth about the problems at this camp and that we did not need to do what we were doing.

Mr C.J. BARNETT: The Premier will find that some upper House members, and probably the Greens (WA) in particular, raised the issue of the examples of more recent abuse that were given that just did not stack up. I will not refer to them because they would divulge the names of individuals. I do not deny that the most horrendous abuse of children has taken place in that camp and that the abuse has happened recently. We do not always know of these occurrences because a veil of secrecy and fear surrounds that community. However, some examples of abuse that were given did not measure up. That is why some members in the upper House became very wary of the Government's bona fides with this Bill and the examples of abuse it gave, which simply did not stack up.

Dr G.I. Gallop: Which ones?

Mr C.J. BARNETT: I will not comment on an individual child and the abuse that the child faced - as if I would comment on a child! Examples were given that did not measure up when they were checked by Hon Derrick Tomlinson in speaking to the people involved, including people in authority. It may be in the scheme of things that the point I make is minor, but the examples that the Government brought forward to vindicate the actions to be taken under this Bill were not found to be solid. As I said, clearly horrendous cases of abuse have occurred - that issue can be put to one side - but part of the reason that the Government fumbled the passage of this Bill lies in the examples of abuse it provided that did not stand up to scrutiny. The Government should have been open and candid with the Parliament and, if need be, spoken in confidence with members of the Opposition. The Government has had difficulty with this Bill simply because of the way it has handled it. It has broken almost every rule in the book. It has not been genuine. It has been disingenuous; there is no doubt about that.

Dr G.I. Gallop: There is a helluva lot of doubt about it.

Mr C.J. BARNETT: From the outset I knocked on the Premier's door but nobody was home.

Dr G.I. Gallop: You weren't there. I then met the member for Murdoch. The members for Murray-Wellington and Hillarys were there and I had a good chat with them.

Mr J.L. Bradshaw: Whereabouts?

Dr G.I. Gallop: Outside in the corridor.

An opposition member: You could have sat down with the Leader of the Opposition on all of this.

Mr C.J. BARNETT: The Premier did not do that. He released details to the media. Even in the last day or so he has done that again. The Premier wants this Parliament to treat this issue seriously. He wants members to give the Government extraordinary powers that will apply equally to the perpetrators of violence as they will to the victims of violence, yet in every step in this process the Premier has run around calling media conferences, releasing information to the media and making public statements. He has not been genuine.

Dr G.I. Gallop: The media are very interested in this issue; they ask me about it every day.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr C.J. BARNETT: I am sure they are; they ask me about it every day.

Dr G.I. Gallop: So what are you on about then?

Mr C.J. BARNETT: I do not comment on it every day.

Dr G.I. Gallop: I see, you don't comment on it.

Mr C.J. BARNETT: I do not comment on it. The Premier has failed in every parliamentary sense. For someone who was a student of politics, he has failed in every step of this process.

Mr M.J. BIRNEY: We are dealing with an amendment to clause 5 of the Bill, which states -

. . . places the care, control and management of the reserve . . . with the Authority for the same purpose as that for which the relevant Crown land is reserved.

Presumably whatever the administrator chooses to do, he or she will be required to use that facility, namely the Swan Valley Nyungah Community camp, for the same purposes as that which it is currently required to be used for. The Premier has said that he will close down that facility. I am interested to know what he plans to do with the facility when he has closed it, particularly in the light of clause 5, which requires him to do pretty much exactly what was designed to be done there; that is, I imagine, to house Aboriginal people. What does the Premier plan to do with the reserve after he has closed it?

Dr G.I. GALLOP: It is in the definitions. The reserve is to be reserved under section 41 of the Land Administration Act for the use and benefit of Aboriginal inhabitants. It is therefore a general clause. We have made it clear that the reserve will be utilised for the use and benefit of Aboriginal inhabitants; that does not necessarily mean it will have a housing option. We will explore other options with the indigenous Swan Valley Nyungah Community on future uses of the site. I do not believe the member has read clause 5 properly. He is implying that we cannot do what we are saying we want to do. That does not follow. We can do what we want to do and there are two things we want to do: in the short term we want to close down the Swan Valley Nyungah Community within the time frame that we can do that, and we want to look to the Aboriginal community on the future uses of the site.

Mr M.J. BIRNEY: I believe the site consists of a number of pieces of accommodation. I am not sure what else the Premier would do with a site that consists of pretty much purely and simply accommodation. I presume he would accommodate people there. Given that clause 5 requires the facility to be used for the same purpose for which it is currently reserved - I accept the Premier's statement that it will be reserved for Aboriginal purposes - and given that it is an accommodation complex and is required to be used for Aboriginal purposes, it follows that after its closure it could be used only for Aboriginal accommodation.

Dr G.I. Gallop: That does not follow.

Mr M.J. BIRNEY: It does because the Premier used the phrase "Aboriginal purposes". It is an accommodation facility; it is currently used for accommodation; it was designed and built as an accommodation facility. Given that clause 5 states that it must be used for Aboriginal purposes, it follows that it must be used as accommodation for Aboriginals. I do not know what else it could be used for. I am very interested to know the Premier's thoughts on that subject; perhaps he could share them with us.

Dr G.I. GALLOP: Some discussions have occurred but they have been very preliminary discussions about what might happen on the site and it is something that we will have to work through. It is far too early to say at this stage, but we have made a clear commitment that its use will be related to the welfare and benefit of Aboriginal people.

Mr M.J. BIRNEY: The more I examine this issue, the more I believe the Premier does not intend to close down this site.

Dr G.I. Gallop: Come on!

Mr M.J. BIRNEY: The Premier has said that the administrator will go onto the site and close it down. He has said that the revocation of the management order will effect the closure of the camp. In fact, all the Premier is doing is transferring the management from the Swan Valley Nyungah Community to the administrator, who will be responsible to the Aboriginal Affairs Planning Authority. There will be a new management. The Premier has not said anything about closing the camp, yet there will be a new management.

Dr G.I. Gallop: That equates to closing it.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr M.J. BIRNEY: The new management, being the administrator according to the Bill, can exclude people from living there. If he likes, he can exclude everybody from living there for no good reason, because the natural justice provisions in the Bill have been knocked out. The administrator can tell everybody that they must go. The reality is that ultimately he will be left with an accommodation complex that clause 5 tells us must be used for the same purposes for which it is currently used or reserved; that is, for Aboriginal purposes. Once the administrator excludes everybody from the camp, as he is allowed to do, he will be left with an accommodation complex that must be used for Aboriginal purposes. For the life of me, I cannot see under which authority the Premier will close the camp. If he were serious about closing the camp, this Bill would be about the closure of the camp, not the transfer of management from the Swan Valley Nyungah Community to the administrator through the Aboriginal Affairs Planning Authority. The Premier would talk explicitly about the closure of the camp if, in fact, he wanted to close the camp. We have seen him on TV spitting out all of his rhetoric about closing down the camp, yet on my scrutiny of the Bill I cannot see how and when he will close the camp. He cannot tell us what he will do with the camp if and when it does close. He has no clear answer to the proposition that it is an accommodation facility and that after the camp is closed it must continue to be used for Aboriginal purposes. It strikes me that the Premier has got himself into a bit of a tangle on this issue.

Ms S.M. McHALE: The essential question is whether members opposite support or do not support the current model. The Leader of the Opposition has indicated that he does not support the current model. I know that Hon Derrick Tomlinson now does not support the current model. He has spoken to me and has indicated that we have got it right and he was wrong.

Dr G.I. Gallop: When did he say that?

Ms S.M. McHALE: Last week. Hon Derrick Tomlinson is a man of integrity and a man who tells us what he thinks. I know that he believes we have got it right.

Mr P.G. Pandal: That is not what he told me tonight.

Ms S.M. McHALE: In that case he has changed his mind, but last week, after a briefing with independent people in the community and a further briefing with the Department for Community Development, he reaffirmed that he believes the camp should close. If he has changed his mind, that is his prerogative, but it is a bit hard to work out the Opposition's position if that is the case. It might help the member for Kalgoorlie to know that the future use of that land will be determined in accordance with discussions with ATSIC and the Aboriginal community.

Mr M.J. Birney: Do you have any ideas about what you might use that land for?

Ms S.M. McHALE: We have ideas, but we will not be prescribing the use of the land, because -

Mr M.J. Birney interjected.

Ms S.M. McHALE: If the member for Kalgoorlie is interested he will listen to the answer. There are a range of options. The Minister for Health could use the land, or it could be used for other facilities.

Mr M.J. Birney: It has to be used to accommodate Aboriginal people.

Ms S.M. McHALE: If the member for Kalgoorlie looks at page 2 of the Bill he will see that the land has to be reserved "for the use and benefit of Aboriginal inhabitants". That is not a term that I would use, but that is quite a broad application for the use of that land. We will work in consultation with Aboriginal communities, ATSIC and others to find out the best use for that land. The notion that we have a hidden agenda is absolutely absurd and offensive. Our agenda is very clear. It stems from Alistair Hope's report on the death of Susan Taylor. That death was horrific, and members should read that report and see what happened. Our agenda stems from the Gordon inquiry and from the Government's implementation program on that inquiry. I assure the member that we have no agenda other than working in the best interests of women and children. Alistair Hope's report states that if organisations such as the one that I administer - the Department for Community Development - or such as the ones that are administered by the Minister for Police or the Minister for Health are excluded from Aboriginal communities, it is the women and children who will suffer. As I told the House earlier, my department is inhibited from carrying out its duties at the Swan Valley Nyungah Community. That is not the sort of behaviour that we encounter in any other Aboriginal community. That is the difference. We are being thwarted in being able to carry out our legitimate duties free from threats and intimidation. That is not an environment that this Government is prepared to countenance. There is no hidden agenda. The agenda is very clear. This is solely about the protection of women and children. It is about closing a camp because we do not believe the current model is the correct one.

Question put and passed; the Council's amendment not agreed to.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: I move -

That amendment No 6 made by the Council be not agreed to.

Mr J.H.D. DAY: This amendment will delete clause 6, which refers to the Registrar of Titles being required to take such measures as are necessary to record the effects of sections 4(1) and 5(1) in the register as defined in the Transfer of Land Act 1893. We need some explanation from the Premier about why this amendment is not agreed to. I am also mindful of the fact that the Leader of the Opposition would like to make some additional comments, but he has had to leave the Chamber for a short time.

Dr G.I. GALLOP: Clause 6 provides that the Registrar of Titles is to take such measures as are necessary to record on the land register the revocation of the management order in favour of the Swan Valley Nyungah Community Aboriginal Corporation and the appointment of the authority as the management body of the reserve. This will ensure that the land register will be consistent with the effect of the Bill. Clause 6 is proposed to be deleted as a consequence of the changes to clause 4 and the deletion of clause 5, because that means there is no need to register the revocation. From our point of view, this amendment is no longer needed, because we have already disagreed with those two earlier amendments.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 7 made by the Council be not agreed to.

Mr M.J. BIRNEY: Amendment No 7 is interesting. It strikes me that it is very similar to the current situation that the Government is promoting, particularly proposed new subclause (2), which states that the Land Administration Act minister may in writing appoint the authority - which I take it is the Aboriginal Affairs Planning Authority - as administrator of the reserve in order to secure compliance with the terms of the management order. Why is the Premier opposed to that amendment? It is very similar to the proposition that he is putting forward; namely that an administrator take control of the Swan Valley Nyungah Community in order to put things right.

Dr G.I. GALLOP: Clause 7 of the Bill gives additional powers with regard to the care, control and management of the land comprised in the reserve. The Legislative Council has chosen to change that clause as follows: first, it has put in a new subclause (1), which provides that the powers conferred on the Land Administration Act minister under clause 7 are in addition to any other powers that the Land Administration Act minister may exercise. There is probably no harm in including that subclause. However, it duplicates the provisions already covered in subclause (8) of clause 7. Secondly, proposed new subclause (2) permits the Land Administration Act minister to appoint the Aboriginal Affairs Planning Authority as administrator of the reserve in order to secure compliance with the terms of the management order. This is an important point about the complicated nature of the amendments moved by the Legislative Council. It is questionable whether the change will add anything to what the Land Administration Act minister or her delegates could probably already do under the Land Administration Act; that is, monitor whether the terms of the management order are being complied with. The changes to the clause, when read with the changes to clause 4 and the deletion of clause 5, will mean that the corporation will remain the management body that has the care, control and management of the reserve; that is, the Swan Valley Nyungah Community Aboriginal Corporation.

Mr M.J. Birney: That is not true.

Dr G.I. GALLOP: It certainly is. They will mean also that another body, as administrator, whether it be the authority or a person it appoints, will have the direction powers as set out in clause 7(3). If the changes made by the Legislative Council were to go through, the clause would have a different number, of course, but those changes will not be going through. The changes to the clause will mean also that the Land Administration Act minister, in the absence of an administrator, will be able to exercise the direction powers set out in clause 7(3). As I said, if the Legislative Council amendments were accepted, that clause would have another number.

The administrator would not have any other function, except to give directions. He would not have any powers to go onto the reserve or carry out any management of it. This creates a conceptual problem, and, practically, it is difficult to envisage how it would work. For example, how does the authority ensure compliance with the management order or the administrator exercise the direction powers under clause 7(3)? Certainly, this was not an issue with the Government's original Bill, because the authority was the management body. It is also unlikely that the administrator would be able to direct a person who is part of the corporation, while it is the management body, to leave the reserve pursuant to clause 7(3). It is assumed that this was intended by the changes proposed. However, there would be this problem.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr M.J. Birney interjected.

Dr G.I. GALLOP: The management is still with the Swan Valley Nyungah Community. The administrator is supposed to direct according to the management order. That creates a very complicated situation. If the Opposition's intention is to close down the camp - that appears to be its intention - this would be a very complicated situation. The Government does not see any necessity for these amendments. If the Opposition is committed to revoking the management order, putting in the minister and the minister putting in the administrator, there is no need to do any of those things. It is much better to follow the course that we have chosen.

Mr M.J. BIRNEY: I am not sure that I agree entirely with what the Premier has just said. This amendment from the upper House provides for the appointment of an administrator. After the administrator has been appointed, the current management committee will be set aside. As I read this amendment, the current management committee has no management rights while the minister is administering the affairs of the camp. The minister may appoint the administrator in order that the people in that camp comply with the terms of the management order.

Dr G.I. Gallop: Why would you want to do all this?

Mr M.J. BIRNEY: The Government is doing exactly that. Let us think about this.

Dr G.I. Gallop: No, why would you want to do what the Legislative Council has done? Let us have a proper debate. You justify what the Legislative Council has done, and I will respond.

Mr M.J. BIRNEY: The Government is doing exactly that, because it has introduced clause 7 into the Bill, which provides for the appointment of an administrator.

Dr G.I. Gallop: Yes, but you have revoked the management order.

Mr M.J. BIRNEY: The amendment from the upper House simply states that the Land Administration Act minister may appoint the authority as the administrator. Therefore, the minister may appoint this fellow opposite, the Minister for Indigenous Affairs, as the administrator. That is how I read that amendment. Presumably, once an administrator had been appointed, he would be subject to all those things contained in clause 7 that are being promoted by the Government. I have a bit of difficulty following the Premier's argument about why he is opposing this amendment, because it is similar to his own position.

Dr G.I. Gallop: I will interject and say that I believe the member is treating this issue in abstraction from the rest of our Bill. We are revoking the management order. That is fundamental. The Legislative Council does not want to revoke the management order. That is the difference.

Mr M.J. BIRNEY: When an administrator is appointed, the management order is set aside in terms of the current management of the operation. The Swan Valley Nyungah management committee will no longer be capable of managing the place when the administrator is appointed. The administrator will become the manager, and he will then be subject to all the conditions imposed upon him under clause 7. It is pretty much the same thing as the Premier is promoting, and I do not think he can put together a coherent argument for opposing this amendment.

Mr C.J. BARNETT: Further to what the member for Kalgoorlie said, the Premier could have had this administrator appointed two weeks ago. If it had been so urgent and if children are directly at risk, the Premier could have brought the Bill back to the lower House and accepted the amendment, and the administrator could have been appointed two weeks ago. That is what I cannot understand. What happened to the urgency? The administrator would have the power to remove any individual from that camp, and if the administrator so wished, he could remove every single person - every man, woman and child - from that camp. That, by any definition, would close the camp. He could remove every person from the camp. The Government had the powers to appoint the administrator.

Mr A.J. Carpenter: Subject to legal challenge.

Mr C.J. BARNETT: Maybe subject to legal challenge - big deal! In six months there might be a legal challenge. The whole point is that the Government did not cry the urgency of this legislation because of a legal challenge in six months. The reason it cried urgency was because it implied to this House that children are at risk right now. That is why it received the courtesy of this House in allowing the legislation to go through. That is why I am flabbergasted that the Government did not take the opportunity to appoint the administrator to evict the offending males and, if he so chose, to evict everyone from the place and lock the gate.

Dr G.I. Gallop: He would not.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr C.J. BARNETT: The Government could have done it. If it had been genuine about protecting children at risk as of three weeks ago, it would have accepted this, appointed the administrator, moved everyone out and shut the gate. If there was a challenge in three or six months, it could be dealt with in the courts, or the legislation could be tidied up in some way.

Dr G.I. Gallop: Have you heard of injunctions?

Mr C.J. BARNETT: No, it is nothing to do with injunctions. The administrator could have gone in and removed every single person from that camp.

Point of Order

Mr P.G. PENDAL: I have raised this issue before. The Speaker has laid down a rule that members are not to shout over others to the detriment of people who are trying to listen to the debate. I am asking you, Mr Acting Speaker (Mr A.P. O’Gorman), to enforce that on both sides of the House.

The ACTING SPEAKER: I call on the Minister for Health and ask him to sit down.

Debate Resumed

Mr C.J. BARNETT: Everyone else has been named, but I appreciate that the Acting Speaker is a very fair chairman.

Dr G.I. Gallop: You are showing contempt for the Chair.

Mr C.J. BARNETT: It is just an observation.

Why did the Premier not appoint the administrator when he had the opportunity to act on what he portrayed to this Parliament to be a matter of urgency? Suddenly it is about legal challenges or injunctions down the track.

Dr G.I. Gallop: It always was. That was always our argument.

Mr C.J. BARNETT: No, it was not.

Dr G.I. Gallop: Yes, it was. That is why we are doing it.

Mr C.J. BARNETT: No, it was not. When the Premier brought the legislation into this place, he called for the support of this Parliament to protect children, and he portrayed an image that they were then at risk. That is why he got that support. Now the argument is that the Government could not appoint the administrator because of injunctions or court cases down the track. That is absolute rubbish. The Government has not been genuine in this exercise. Throughout, the Premier has not been genuine in his commitment. This has been more about media stunts and press releases than about being genuine. Even today, the same old trick is being played by this Premier. When the Premier has received the courtesy of this Parliament, he has not reciprocated in one measure at all.

Dr G.I. GALLOP: I refer to the legal advice that was given to the Government and the Opposition.

Mr C.J. Barnett: Yes, two weeks after the Bill was introduced; it was not even prepared prior to its introduction.

Dr G.I. GALLOP: Hang on. This is legal advice about the Opposition’s amendments in the Legislative Council. The advice deals with clause 4, which we have already covered, and with the administrator. This is about the Legislative Council amendments that we are debating.

Mr C.J. Barnett: When we met with you two and a half weeks ago, you told us that you had legal advice. We sought that legal advice. I wrote to your office requesting it.

Dr G.I. GALLOP: And the Leader of the Opposition got it.

Mr C.J. Barnett: No. When it came, it was legal advice on the Council’s amendments. You told me in your office that you had legal advice at the time you introduced this Bill.

Dr G.I. GALLOP: Of course we did. That is why we did it..

Mr C.J. Barnett: Despite your promises, you did not forward that advice to the Opposition.

Dr G.I. GALLOP: The advice states that it appears incompatible for there to be both a management body having a care, control and management function and an administrator having a particular direction power. A major barrier to the exercise of the Land Administration Act minister’s powers is section 12 of the Land Administration Act, which requires the consent of the management body - the corporation - to the exercise of clause 4 powers. No protection is given to prevent legal proceedings being instituted to challenge revocation outside or under the

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

new Act, or to challenge directions under the new Act. That is the legal view of the Opposition's amendments, and that is why the Government opposes them.

Mr J.L. BRADSHAW: Legal advice is like a lot of things. The results one gets depend on whom one goes to and who is paying the bill.

Dr G.I. Gallop: I will tell you what: I would not go to Peter Foss for legal advice.

Point of Order

Mr C.J. BARNETT: The Premier is clearly reflecting on a member of the other House and I ask him to withdraw.

Mr J.C. KOBELKE: I do not think it takes much to dismiss that as not being a point of order. It was about a matter of legal advice, and reflecting on whether one goes to a particular Queen's Counsel is simply a statement about whom one might go to for advice. It does not in any way contravene the standing orders.

The ACTING SPEAKER (Mr A.P. O'Gorman): There is no point of order.

Debate Resumed

Mr J.L. BRADSHAW: I am sure that if the Government had brought in these amendments, its legal opinion would have been that those amendments were okay. I have a bit of a problem with some of the legal advice that is thrown around these days. The advice people receive depends on which side they are on and whom they go to for the advice. In this case it seems that the Government has sought legal advice that opposes the Opposition's amendments. I remember back in the 1980s when I introduced a private member's Bill and the then member for Mitchell -

Dr G.I. Gallop: David Smith.

Mr J.L. BRADSHAW: I think he was then Minister for Justice. He got legal advice from Kevin Hammond who, I think, was the Solicitor General -

Dr G.I. Gallop: Parker.

Mr J.L. BRADSHAW: The legal advice was that my Bill would put every statutory marketing authority at risk. Obviously, David Smith did not like the idea of my introducing a private member's Bill and getting a bit of kudos for it, so he tried to kill it however he could. My Bill was withdrawn because I had a bit of a problem with the National Party at the time. Later in the year, David Smith, the then Minister for Justice, introduced the same Bill. The only variation was that the minister had to approve how the money would be spent. It was to do with meat inspection fees and the Harvey and Waroona Shire Councils. David Smith introduced the same Bill with one change. I rang Kevin Parker -

Dr G.I. Gallop: He is now a Supreme Court judge, appointed by your side.

Mr J.L. BRADSHAW: I am not sure why.

Dr G.I. Gallop: They appointed him!

Mr J.L. BRADSHAW: I did not appoint him!

Dr G.I. Gallop: Your Government did.

Mr J.L. BRADSHAW: Do not blame me. When I rang Kevin Parker, I asked him why the Government's Bill was all right. He said that there were subtle differences in it. What a load of rubbish! It was the same Bill except for one clause. In that case, it suited the Minister for Justice to get legal advice from a lawyer to reject my Bill, but when the same Bill was introduced later, it had subtle differences in it. I do not think much of the Government's legal advice anyway.

Dr G.I. Gallop: What is it about the legal advice that you do not like?

Mr J.L. BRADSHAW: If the amendments had been made by the Government, the legal advice would probably be that they are all right. Lawyers seem to have a way with words to support whatever people want. That is what I am trying to say, so I would not take any notice of that advice.

Mr M.J. BIRNEY: Further to the comments of the member for Murray-Wellington, I observed the Premier reading from that legal advice as though he was reading from the Bible and it was gospel. I simply point out that in every court case in every court in the land there are two lawyers, both with opposing views, and only one of them is ever right.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: First of all, I will correct the Leader of the Opposition. When the Legislative Council members were briefed on the Government's legislation, they were given the legal advice about all the matters in the Bill. Hon Norman Moore was given not only a verbal briefing but also a package. The Leader of the Opposition is wrong when he says that we did not brief the Opposition on the legal advice attached to our Bill. Of course, then the Opposition came up with its amendments and we needed more legal advice on those amendments.

I appreciate the views held by the member for Murray-Wellington on the question of legal advice. However, the legal advice we have on this matter is important, because it deals with the impracticality of what the Opposition proposed in the Legislative Council. That was very sound advice to us, particularly given our objective, which is to have a fairly uncomplicated way to deal with a major social problem in our community.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 8 made by the Council be not agreed to.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 9 made by the Council be not agreed to.

Mr C.J. BARNETT: Amendment No 9 deletes clause 8, which, as the Bill was originally drafted, would have excluded or denied access to natural justice. That is an extraordinary thing to do. It is extraordinary to pick out one group in the community and legislate through Parliament to create a statute to specifically deny that group the right to be heard and the right to access the justice system and the courts. That is an absolutely extraordinary thing to do, particularly when it is being done to a group so clearly defined by its race and residence. Again, it is the Swan Valley Nyungah Aboriginal Community.

Dr G.I. Gallop: If a non-Aboriginal community were doing the same things, we would be acting in the same way. That is hypothetical. However, the point I am making is that it has nothing to do with race, and you know it hasn't.

Mr C.J. BARNETT: I did not say that it was racially motivated. I have been quite careful.

Mr R.C. Kucera: That is what you implied.

Mr C.J. BARNETT: No, I did not. I do not need to be diverted by such a poor performing minister as the Minister for Health. I am trying to deal with this issue sensibly.

The issue is that this group is defined by residence and by race. I do not ascribe a racial motive in doing it, but they are defined by race. They happen to be the Swan Valley Nyungah Community; therefore, immediately the Government runs into the danger or risk of being overruled in higher courts under the commonwealth Racial Discrimination Act. There are plenty of examples, unfortunately, of abuse against children in all communities in all walks and levels of society. Yet this particular group is denied any rights to natural justice. What offends me about this clause is that the victims are denied their rights to natural justice. Why should they be denied those rights? Some of the victims are concerned about the land, about their homes and about that place. Despite the horrors and the abuse that may have happened there, as I said before, it is their only home. Yet this Bill denies them any right to pursue the matter at law. That is an extraordinary thing for a Parliament to be asked to do. I do not agree with this clause.

Dr G.I. Gallop: Is that a Liberal Party position or what?

Mr C.J. BARNETT: Just grow up!

Dr G.I. Gallop: Come on! It is a legitimate question.

Mr C.J. BARNETT: Does the Premier not understand that Liberal Party members have an opportunity to think and speak according to their conscience on Bills? I will defend their right to do so. Our members -

Dr G.I. Gallop: So, there is no union in the Liberal Party on this? Your leadership has failed.

Mr C.J. BARNETT: Our members can speak on matters of importance. I have noticed that not one member on the back bench has stood to speak in support of indigenous Australians on any aspect in any part of this debate. I do not defend the actions of Bropho and his sons at all. I deplore what he does. However, I note for the record that not one of these do-gooding members who talks about the plight of Aboriginal people has had the courage or

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

the conviction to stand and say a single thing about Aboriginal people in Western Australia, who, by any standard, have appalling levels of education and health and suffer appalling levels of abuse. The reasons are complex and long. Despite all the rhetoric of the speeches that carry on about reconciliation, not one member opposite has criticised this Bill. Where is reconciliation in this legislation? It denies Aboriginal people the right of natural justice. Where does the Premier stand on reconciliation? Why raise the Aboriginal flag outside this Parliament when the Premier brings in a Bill that specifically denies Aboriginal people any right of natural justice? It is absolute garbage for the Premier to talk about reconciliation when he denies one group any right of natural justice on the basis of its race. That is how it is defined. The Premier should not go around putting out glossy brochures and talk about how he cares for Aboriginal people.

Mr M.J. BIRNEY: It is an interesting point of view. From time to time we hear Labor Party members in this place talk about Aboriginal people and their rights. I have heard many of them purport to champion Aboriginal issues in this place. The Premier is one of those people. I have heard the member for Riverton speak often about Aboriginal people and how he purports to champion their rights. The Deputy Premier goes on ad nauseam about Aboriginal people, their rights, and native title. We even have a Minister for Indigenous Affairs. One would think he would purport to champion the rights of Aboriginal people. The clause strikes me as being quite extraordinary. One would have to read a lot of legislation -

The ACTING SPEAKER (Mr A.P. O’Gorman): Order, members! There is a lot of audible conversation at the back of the Chamber. It is hard for Hansard to hear the member for Kalgoorlie.

Mr M.J. BIRNEY: A person would have to trawl through a lot of legislation to find a clause titled “Exclusion of rules of natural justice”. This is the name of the Government’s own clause. Given that it is an extraordinary thing to do it is fair to ask why that would happen. I can assume only that the Government is of the view that a lot of underhand and possibly criminal activity is taking place at the Swan Valley Nyungah Community, but it cannot prove it. It thinks these things are going on. I think they are going on as well, but it is only from anecdotal evidence. The Government cannot prove that these things are occurring so its next step is to exclude the rules of natural justice. The clause relates to clause 7 and the powers conferred upon the administrator, who is permitted to direct a person not to enter the reserve and who can direct a person to leave the reserve. Presumably, individuals would be directed to leave the reserve if they were not complying with the management order. If they were playing up or doing something untoward they would be directed to leave. Why would they not be afforded natural justice in the process? We must be sure that something untoward is happening. We must be certain that any individual about to be evicted from the camp was doing something untoward, engaging in criminal activity or circumventing the original management order. Why would that not be done? I can assume only that the Government is guessing that the activity is happening. It is a very dangerous game for a duly elected Government to play. It is guessing that something is happening and denying people natural justice in order to deal with the perceived problem. That is extraordinary in anyone’s book.

Mr C.J. BARNETT: As the member for Kalgoorlie said, it is extraordinary. How many times have members on this side of the House heard speeches from Labor members? How many times have they heard the Premier talk about antiracism at multicultural events in the past two years? I have heard the speeches. How many times have we heard Labor Party members talk about their commitment to reconciliation and what they will do for indigenous people? Dozens of times.

Mr P.B. Watson: Will the Leader of the Opposition take an interjection?

Mr C.J. BARNETT: In a moment. We are currently in Parliament. The member for Albany may surprise me but I have listened to members opposite. The member for Perth has just left the House. He will stand and take on the cause of all sorts of minority and what he perceives to be oppressed groups in the community. I have not heard him stand up for Aboriginal people on this Bill. Not one member opposite has done so. The member for Girrawheen understands the legal issues.

Ms M.M. Quirk: I have been approached by Aboriginal people in support of this Bill.

Mr C.J. BARNETT: I am sure the member has been approached by members of the Aboriginal community, the legal community and officers within the various agencies. Not one Labor member has stood. That is the point. Labor members are the ones who present themselves as great reformers for social equality and people’s rights. Not one of them has had the courage to stand in the Parliament and voice concern. I am not saying they have to vote against the Government. Not one of them has said he or she has a problem with denying this group of Aboriginal people the right to use the State’s court system and the right to natural justice. None has done that. They should never expect me or other members to take them seriously when they make speeches about racism or social equality and justice for Aboriginal people, or when they talk about the Nyoongah flag and reconciliation -

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

all those fine-sounding things. The record will show that when it came to the crunch on standing up for the rights of indigenous people, in particular the most basic right of Aboriginal people to pursue their legal and constitutional rights in the courts, the Government has failed. The Aboriginal people should have the right to use the courts, whether they win or lose. Why does the Government deny them that right? I will give a hypothetical example. The camp contains innocent women and children. Many of them have been abused. Who knows what will happen to the land? After the perpetrators are hopefully dealt with and removed and the women and children feel more secure, they may wish to use the courts to try to gain and protect the land for the people who live there. Where do they go? They cannot go to the courts. They cannot use our justice system. Who has denied them that fundamental democratic right? It is Dr Geoff Gallop, the Premier of Western Australia.

Mr M.J. BIRNEY: I know why the Government wants to exclude the rules of natural justice for the residents of the camp in relation to clause 7, which provides for the eviction of people. It is because the Government wants to throw everyone out, regardless of whether they have done anything wrong. If the Government attempted to throw out someone who had done nothing wrong, the rules of natural justice would apply and the individual could not be evicted. The clause is to ensure that everyone can be thrown out and no-one can have any legal redress. Let us be clear about that. If that is the case - I am sure it is - why has the Premier not mentioned in this Bill that he wants to throw everyone out and close the camp? The more I look into the process and the more I follow the Premier's rhetoric the more I see this is becoming a smelly exercise. The Premier talks about the need to close the camp but he will not put it in print. It may be because he does not want the people of the Swan Valley Nyungah Community to understand exactly what he wants to do following the passage of this legislation. He wants to close the camp. He wants to throw everyone out of the camp and relocate them. However, he will not put it in print. The Bill has odd little causes like clause 8, which denies people the rules of natural justice. It is presumably to throw out someone who has done nothing wrong. It is an odd little, smelly process. It is one that is becoming reminiscent of this Premier.

Dr G.I. GALLOP: We have had all the rhetoric from the other side. In the past couple of years there have been many challenges in our community. There has been the challenge of organised crime, and some very tough legislation has gone through this Parliament to deal with it. "Civil libertarians" have attacked the Government because the traditional rights of organised criminals in our community have been taken away. We do that because we do not want organised criminals with a foothold in our community terrorising people. The Minister for Police is not here, but I say to her Police Service, well done for putting huge pressure on organised criminals, and using our legislation to help do it. We have been criticised by civil libertarians, but the rights and freedoms of people to live in a safe community are very important. Secondly, we have had to deal with the threat of terrorism. Every one of the Labor Premiers has worked with the current Commonwealth Government to change the laws of Australia to make it possible for Governments to deal with this new type of threat.

Mr C.J. Barnett: The only information the Opposition has received has come from the Commonwealth Government.

Dr G.I. GALLOP: The Leader of the Opposition really has difficulty with this. We have fully cooperated with the Commonwealth Government to make sure that the Parliaments of Australia have the powers to deal with these things.

Now we come across another issue - community-based oppression. We have had community-based oppression within some institutions set up in the past that is now all being revealed. Some of these institutions have been run by the Government. Young people were abused and maltreated over many years, but according to the laws we had at the time, nothing could be done about that, and it was all covered up. We have reached the point now at which community-based oppression, organised crime and international terrorism will be tackled by Governments. The Government will take these things seriously. We make no apologies for the fact that this is tough legislation. We know how Mr Bropho works. We have observed how he uses the system to defend the oppression that exists in his community. He has now come across a Government that wants to do something about it. Sometimes, it must be done. Some people will complain. The member for South Perth, Hon Peter Foss, Hon Derrick Tomlinson, the Leader of the Opposition and the member for Kalgoorlie are all complaining about it.

Mr M.J. Birney: What did I say?

Dr G.I. GALLOP: The member said it was undesirable just a few second ago.

Let us return to the tintacks of this matter. We must face threats in our community from terrorism, organised crime and community oppression. We must look at ways of dealing with those threats. We must be careful, and limit the effects. The Government agrees with a sunset clause in this Bill. However, if we run away from this challenge on the basis of the arguments being put up by the Opposition tonight, we will be letting down the

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

women and children at this site. The course of action being proposed by the Leader of the Opposition would tie us up in lengthy litigation, injunction and argument. Ask the Minister for Indigenous Affairs about the difficulty he had removing the classroom from that site. Ask the Attorney General about the issues posed about the protection of our heritage at the Swan Brewery site. Look at the coroner's inquiry into the death of Susan Taylor. All these arguments can go on, but we must return to the reality of what we are trying to do.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 10 made by the Council be not agreed to.

Mr C.J. BARNETT: This amendment relates to the discretion that can be used by the administrator. It gives him absolute powers. Again, it is an issue of justice and fairness.

Dr G.I. Gallop: What is the point of all these arguments if the Opposition is voting with the Government? I cannot understand where the Opposition is coming from.

Mr C.J. BARNETT: We are not voting with the Government. Has the Premier not noticed that we have not voted with the Government?

Dr G.I. Gallop: That is not what the record will show.

Mr C.J. BARNETT: As I said in this Parliament about four hours ago -

Mr R.C. Kucera: It is base politics; the Leader of the Opposition is trying to save face. We are talking about the lives of innocent people.

Mr C.J. BARNETT: The Minister for Health should stand up for Aboriginal people in his electorate. He will not stand up for them. I am not even interested in his views. He so lacks honour that it is not worth talking to him.

Mr C.J. BARNETT: I said to the Premier three or four hours ago that the Liberal Party will allow the passage of this legislation. He should not think for one minute that that confirms, condones or supports this legislation, which is deficient in so many areas.

Dr G.I. Gallop: So you are saying -

Mr C.J. BARNETT: I will say what I say, not what the Premier wants to say that I say. I am saying that we are allowing the passage of this legislation. People in good conscience do not support that previous clause, the removal of natural justice. The member for Perth has come into the Chamber. I apologise for referring to him in his absence. He has taken up many causes. Will he now stand up and say anything on behalf of Aboriginal people, or about the denial of their rights to natural justice? Not one of his colleagues on the back bench has had the courage to open his or her mouth. I am not asking them to oppose this Bill or this clause. I am just asking if one of them will stand up as an individual and say anything. The Premier likes to make points about the Liberal Party disagreeing.

Mr J.N. Hyde: We would never vote for a Bill and then stand up and waste time with arguments. Either vote against the Bill or sit down.

Mr C.J. BARNETT: This is a Parliament, which is about speaking. It is about debating, canvassing and scrutinising legislation. Not one member of the Labor Party has been willing, in this debate, to stand up and raise one issue on behalf of Aboriginal people or one concern about the precedents this Bill will create for racial harmony and the rights of a particular group - in this case a group of black, indigenous Australians living at Swan Valley. Not one government member has stood up. I just want that on the record. Next time I go along to an indigenous function and hear the Premier make speeches about racial harmony and reconciliation, I will look him in the eye and tell him he is the first Premier in this land, since federation, to use a statute to deny Aboriginal people access to natural justice.

Dr G.I. Gallop interjected.

Mr C.J. BARNETT: Can the Premier give me a precedent anywhere in Australia since federation? He will not find it. The Premier will stand in history as the Premier who removed natural justice from a group of indigenous Australians. Like it or not, that will be his mark on the history of indigenous affairs.

Dr G.I. GALLOP: I accept my responsibilities as the Leader of the Labor Party and Premier of Western Australia to do something about the many problems we have as a community. We could run away from these problems and hope they go away. I was interested in what the member for Ningaloo had to say when we last

Extract from *Hansard*
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

debated this issue. I do not want to embarrass the member, but he said something that I thought was quite important. He said he took these issues to the then Minister for Indigenous Affairs, the former member for Yokine, and he did not want to look at them. When these issues came up, my Minister for Indigenous Affairs, my Minister for Community Development, my Minister for Health and my Minister for Police were very keen to make sure we did something about them. That is the difference between the two sides on this issue. On this legislation we will stand; on this legislation we will be judged; on this legislation we will act!

The Leader of the Opposition made a very interesting comment just then. He said that our role in this Parliament is to talk. As one of the great parliamentarians of all times said -

Mr J.N. Hyde interjected.

Dr G.I. GALLOP: There is no doubt about it - LBJ! The member for Perth is absolutely spot on. A new volume has come out on Lyndon Baines Johnson, one of the greatest legislators ever to go through a democratically elected Parliament. He would sidle up to his colleagues when they were talking at length and say, "Son, we are not in here to talk; we are in here to legislate and vote." That is what we are in this Parliament for - to vote! When members vote they express themselves; when members vote they put their stamp on how the State will be run. For the Leader of the Opposition to say that the role of members is to speak tells us an enormous amount. Their role is to speak and then to vote. We on this side of the House are expressing ourselves. We know what our expression is on this issue: it is to vote for those women and children and to look after them into the future.

Mr C.J. BARNETT: The Premier always resorts to history, and I do not deny that he has a very good knowledge of history, but he chose Lyndon Baines Johnson! Lyndon Baines Johnson would be most remembered in American history for civil rights in respect of the oppression of black people in the southern United States of America.

Dr G.I. GALLOP: Are you saying this is oppressing black people? Come on! We are liberating them.

Mr C.J. BARNETT: It could not be less appropriate for the Premier to use Lyndon Baines Johnson as an example in what he is doing in this Bill to deny Aboriginal people their rights to natural justice. Does he think Lyndon Baines Johnson would ever have stood in the Legislature on Capitol Hill and denied black Americans their rights? There is no way he would have done that. The Premier's example is totally inappropriate, but I am glad he raised it. Lyndon Baines Johnson will go down in American history as the greatest modern campaigner for the rights of black Americans, and the Premier chooses to use him when the Premier is taking away the rights of a group of people in the Swan Valley who just happen to be Aboriginal. Next time the Premier resorts to history for an example he should think before he opens his mouth.

Dr G.I. GALLOP: I will respond to that point. Wherein lies the racial prejudice? I will tell the Leader of the Opposition where it lies: when people who are concerned about the oppression of individual men and women go to the Government of the day and tell it that this problem exists, and it sweeps it under the carpet. That is how I define racial prejudice; that is how I define racism. Do members know what those opposite are actually saying?

Mr A.J. Carpenter interjected.

The ACTING SPEAKER (Mr J.P.D. Edwards): Members!

Mr C.J. Barnett interjected.

The ACTING SPEAKER: Order, Minister for Indigenous Affairs and Leader of the Opposition! The Premier has the floor.

Dr G.I. GALLOP: Do members know what I suspect? When these things were swept under the carpet, they thought in the back of their minds that it did not really matter because they were just Aborigines.

Mr J.H.D. DAY: I am very concerned at the insinuations and even the direct suggestions from some members of the Government that action could have been taken by the previous Government in relation to this problem but was not.

Dr G.I. Gallop: The member for Ningaloo said he took it up with the Government and it was ignored.

Mr J.H.D. DAY: I would like the Government to provide any evidence that clear information was provided to the previous Government that would have justified this sort of action.

Mr R.C. Kucera interjected.

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr J.H.D. DAY: Would the Minister for Health like to comment? I was Minister for Police from January 1997 through to July 1998. This is not necessarily the sort of issue that would have been brought to the attention of a Minister for Police. If there were matters of concern about criminality, assaults, rapes, murders or whatever, they are the sorts of issues one would expect police officers to deal with. It may well have been that police officers had concerns, but I have no recollection of anything being put before me, or to my knowledge before any other member of the Government, that would have justified this sort of action being taken. Who in their right mind in government would not take strong action to try to deal with the problem if they were made aware of the serious concerns that have now been expressed?

Mr J.N. Hyde: So we are right to act, then?

The ACTING SPEAKER: Order, member for Perth!

Mr J.H.D. DAY: The point I am making is that information is now available, which has become available - as the Premier himself has said - since the coronial inquiry into the death of Susan Taylor and following the Gordon inquiry. Those two events have occurred in the past two years. I find the suggestions by the Government - the Premier and the Minister for Indigenous Affairs - that the previous Government could have taken this sort of action but failed to and swept things under the carpet absolutely offensive.

Dr G.I. Gallop: You certainly did it as police minister; there is no doubt about that. Why didn't you have a royal commission?

Mr J.H.D. DAY: Does the Premier want the whole debate to be about this? Is he talking about this issue or about more general issues?

Dr G.I. Gallop: The police; the same form.

Mr J.H.D. DAY: What information was put before me -

Dr G.I. Gallop: The Liberals in Western Australian history have always been complacent.

Mr J.H.D. DAY: There is no credibility in what the Premier says. He is putting a political point of view.

Mr R.C. Kucera interjected.

The ACTING SPEAKER: Order, Minister for Health!

Mr J.H.D. DAY: At the time we are talking about, the Minister for Health was an assistant commissioner of police. Can he tell me what information was put before me or my predecessor, Bob Wiese, or my successor, Kevin Prince -

Mr R.C. Kucera: I do not breach confidences, and you know that.

Mr J.H.D. DAY: I am inviting the minister to tell me what information was put before any former Minister for Police, members of the former coalition Government - all three of them - that would have justified this sort of action.

Mr R.C. Kucera: You were the minister. Are you saying this is not justified after five deaths, after the evidence that has come out about alleged child rape, after evidence that has come out about -

The ACTING SPEAKER: Order, Minister for Health and the member for Darling Range. I remind members that they are supposed to speak through the Chair. We are not here to have a discussion across the Chamber. Will members please address their remarks through the Chair.

Mr J.H.D. DAY: Mr Acting Speaker, I accept that advice. The Government has been seeking to create the impression and directly assert that information was put before the previous Government that would have justified this sort of strong action but the previous Government ignored it. I would like the Government to produce evidence of that if it can do so, but I do not believe it can. No decent person and no person who was doing his job properly would ignore this sort of problem if made aware of it. The reality is that this information has come out since the coronial inquiry and since the Gordon inquiry, which has been in the past two years. The claims by the Minister for Indigenous Affairs, the Premier, the Minister for Health and others on this issue simply do not hold up.

Mr M.J. BIRNEY: I agree with the comments of the member for Darling Range. The Premier indicated that the previous Government knew about all of this so-called illegal activity that was happening there and "swept it under the carpet". The reality is that even today in this current environment there is a severe lack of the evidence that the Premier talked about. That is why we have not seen a raft of people from the Swan Valley Nyungah Community lined up at the courts charged with criminal offences. That is why the Premier is using clauses such

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

as clause 8, relating to the denial of natural justice, to kick out of the camp people who he thinks have engaged in illegal activity. He does not have the hard core proof of evidence that would stand up in court; therefore, he is using this legislation to kick people out of the place because he thinks they are doing illegal things. That is the crux of this legislation. It is absolutely scurrilous of the Premier to say that the former Government knew of this illegal activity and did nothing about it, because the evidence is still not clear today. That is why the Premier is using this odd little Bill to throw people out of the place when he is not even sure that they have done anything wrong.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 11 made by the Council be not agreed to.

Mr C.J. BARNETT: Again, this amendment will give extraordinary powers to the administrator and deny any due and proper process. It will allow the administrator to give a direction with no accountability provision and no requirement to give reasons. The administrator should be expected to give an explanation for any decision made. If I were the administrator I would want to give the reasons for the decisions I took; I would not hide behind a statute. However, as with the clause on the denial of natural justice, this clause is a denial of basic accountability for decisions made. Why should we expect anything else from this Government, given the way it has handled this Bill?

Mr M.J. BIRNEY: Clause 10 supports what I was just saying. If the administrator were to follow the rules of natural justice and evict somebody from the community under clause 7, he would say, "You are hereby evicted because you have engaged in criminal activity; we caught you stealing." However, instead, the administrator will say, "You are hereby evicted from this community because we think you have done something illegal." This clause is about the absence of proof. It has been inserted in the Bill so that the administrator can evict somebody on the presumption of guilt rather than the presumption of innocence. It is a very odd clause and it supports what I have just said: there continues to be a lack of firm evidence that illegal activity is happening in that community, which is why clause 10 has been inserted in this Bill.

Dr G.I. Gallop: Just say that again?

Mr M.J. BIRNEY: For the record I say that it is my genuine belief that illegal activity is happening in that community but I do not have the hard evidence to back up that belief. However, clause 10 is an extraordinary clause. It basically allows the administrator to say, "You're gone because we think you have done something wrong, even though we can't prove it."

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 12 made by the Council be not agreed to.

Mr C.J. BARNETT: This is exactly the same thing - a denial of natural justice and no accountability or explanation to the community. In effect, an individual, whether an offender or a victim, will be given no reason for the decision that has been made. This clause again takes away the entire judicial process. The Premier, because of the way he is handling this Bill, should never again talk to me about rights and freedoms of those people. I speak not for the perpetrators of abuse but rather for the victims. Frankly, no-one on the other side of the Chamber has been prepared to do so.

Question put and passed; the Council's amendment not agreed to.

Dr G.I. GALLOP: I move -

That amendment No 13 made by the Council be not agreed to.

Mr M.J. BIRNEY: It strikes me that this amendment strengthens the Government's position. If members read this Bill closely, they will note that throughout the Bill the Government has attempted to cover its backside in the event that it is sued or that some legal action arises after the passage of the Bill or the carrying out of some of its powers. Amendment No 13 basically states that in the event of a challenge to the appointment of the administrator or the amendment to the management order, all decisions made up to that point will be declared valid. If the Premier were to vote against this amendment, I would be interested to hear his reasons, because, as I said, the amendment strengthens both the Government's position and the Bill. It is remarkably similar to some of the provisions that the Government has already inserted in the Bill to ensure that it will not be the subject of successful legal action. I am interested to hear the Premier's view on that.

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Dr G.I. GALLOP: The proposed amendment to add new subclause (3) to clause 12 provides that if an amendment to the management order or the appointment of an administrator is declared invalid, then any acts that were carried out prior to that declaration are deemed to be valid. The proposed new subclause does not appear to add any legal benefit to the Bill and we see no reason for having it in the legislation.

Mr M.J. BIRNEY: The amendment effectively says that if the administrator has been operating for a period of time and has made decisions that have impacted upon the community, those decisions will remain valid in the event that the appointment of the administrator is found to be invalid. Members could imagine the chaos that would follow from the revocation of the appointment of the administrator. I could think of a number of situations that could arise in which chaos would erupt if all the decisions that the administrator had made up to that point were found to be invalid. It strikes me that this amendment is a good one. I am at a loss to understand why the Premier would put forward the view that it has no legal advantages.

Dr G.I. GALLOP: It might have made sense if the House had accepted all the other amendments made by the Legislative Council. However, it has not and it therefore no longer fits within the structure of the Bill.

Mr M.J. BIRNEY: It may well be that in the future somebody will challenge the appointment of the administrator. It may well be that the Bill's drafters got it wrong. It may well be that there is a loophole in the legislation that allows a challenge to the appointment of the administrator, and if that were to happen, all the decisions made by the administrator up to that point would be declared invalid and the Bill turned on its head. This clause is not linked to the other amendments made in the other place. This amendment can stand on its own two feet. It strikes me that it is a very good amendment.

Mr C.J. BARNETT: The member for Kalgoorlie is correct: this amendment in a bizarre way adds strength to the administrator. I am sure that it is only through stubbornness that the Government will not accept it. This amendment relates to the last clause; therefore, this debate is drawing to an end. I remind the Premier that when he brought this Bill into Parliament three weeks ago he received support for it to pass through this Chamber. There has been debate on the Bill and I do not deny that this has been a difficult issue for the Liberal Party. However, I am proud to say that the Liberal, Independent and Greens (WA) members were the only members of both Houses of Parliament who were prepared to debate the issue and speak out for the rights of individuals, and in this case the rights of a particular group of indigenous Australians. I want to put on record that neither the Minister for Community Development nor the Minister for Indigenous Affairs has participated in this debate.

Dr G.I. Gallop: That is not true! Get your facts straight!

Mr C.J. BARNETT: They did not participate. When challenged repeatedly on issues raised in this debate, the Minister for Community Development did not participate and join in the debate. Not one member of the Labor Party spoke -

Mr J.C. Kobelke: You go from poor to pathetic!

Mr C.J. BARNETT: The minister was not even here. Not one single member of the Labor Party - not one frontbencher and not one backbencher - spoke about the rights of Aboriginal people.

Mr A.J. Carpenter interjected.

Mr C.J. BARNETT: If anyone should have a responsibility to speak on how this Bill will affect the rights of Aboriginal people both now and in the future, it is the Minister for Indigenous Affairs. However, all the minister can do is make smart alec interjections. I regret that I have to say this, but the Premier will be known in history as the Premier who introduced a heavy-handed piece of legislation to deal with a complex social issue. The Premier has sought a legislative solution for something that the Ministers for Indigenous Affairs and Community Development, and indirectly also the Minister for Planning and Infrastructure through her role as minister for lands, have failed to properly address and resolve. The Premier will be left with a mark on his record, because he will be remembered as the Premier who used a statute to deny Aboriginal people their right to natural justice. That will be the Premier's place in history. No matter how many speeches the Premier makes on racism and reconciliation, and no matter how many times the Premier hoists the Aboriginal flag, the Premier's place in history will be as the Premier who used a heavy-handed piece of legislation and failed to listen to the compassion put forward by Hon Derrick Tomlinson. Hon Derrick Tomlinson is the only member in either House who spoke compassionately about Aboriginal people. Not one single person on the other side of the House did that.

Dr G.I. Gallop: Come on!

Mr C.J. BARNETT: Not one single person on the other side spoke with compassion about the issues of Aboriginal welfare. Hon Peter Foss took the time to go through the Bill in detail and point out some of the legal deficiencies. I am not a lawyer. I am not saying that Hon Peter Foss got every point right. However, he is the

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pendal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

only person in this Parliament who has spent hours and hours going through the legislation. Members opposite have treated Hon Peter Foss with disdain and they continue to treat him with disdain.

Several members interjected.

Mr C.J. BARNETT: I am now being subjected to a lot of mindless interjections from people who have failed to stand up for social and legal justice for Aboriginal people and for their rights and freedoms under our constitutional and legal framework. Not one member opposite has done that. That is their record, and that will be the Premier's place in history on indigenous affairs.

Dr G.I. GALLOP: If I can project myself into the future, I think the record will read something like this. The record will say that after continual allegations of abuse in the Swan Valley Nyungah Community, the Labor Government took decisive action in 2003, despite the objections by the Opposition in the Parliament at the time, to protect the interests of the women and children at that camp. I think the history books will record also that the coalition Government introduced legislation into the Parliament of Western Australia to deny Aboriginal people their right to native title as established by the High Court of Australia, but that the good sense of the High Court prevailed and in a 6-0 decision it ruled that racist legislation invalid. That is what the history books will show in a number of years.

Mr D.A. Templeman: Hear, hear!

Mr C.J. BARNETT: There is a significant Aboriginal population in Mandurah.

Mr D.A. Templeman: Yes, there is. I have been talking to them, and they support the Government. That is what they are saying.

Mr C.J. BARNETT: At last a backbencher has bowled into the debate! The member for Mandurah is the first one to open his mouth in this debate! Congratulations! The Premier may remember that when this issue was first raised nearly three weeks ago, the Premier came into this Parliament and talked about the urgency to act. I remind the Premier of what I said at the time. I had not had the opportunity to see the Bill and study it in detail, I had not had the opportunity to speak to my colleagues the members for Kingsley and Nedlands, who are lawyers, and I had not even had the opportunity to speak to anyone in the Liberal Party. However, I gave the Premier support for the passage of this Bill. What we have had since -

Dr G.I. Gallop: Is upper House obstruction.

Mr R.C. Kucera: And base politics.

The ACTING SPEAKER (Mr J.P.D. Edwards) Order!

Mr C.J. BARNETT: The Minister for Health does not have a genuine or sincere bone in his body. I took the Premier to be speaking the truth and to be acting in good faith and sincerity. To the criticism of my colleagues, including those in this House - and I well understand that; I would feel the same - I put the Liberal Party in the position of supporting not the Bill but the passage of the Bill -

Mr R.C. Kucera interjected.

Mr C.J. BARNETT: The minister should dry up and try to allow the Parliament to have a serious discussion.

The ACTING SPEAKER: Order! I do not want to have to call the Minister for Health to order, but I will if he continues.

Mr C.J. BARNETT: I am not addressing my comments to the Minister for Health; I am addressing my comments to the Premier. I am trying to conclude the debate. When the Premier brought in this Bill, I stuck my neck out. I do not regret doing that for one moment; I never have. I offered the Premier support for the passage of the legislation. I said at the time that I had not read or studied the Bill, but I gave the Premier support for the Bill to pass through this House so that there would be the opportunity for the upper House to also pass the Bill. I did that for one reason. As I said, I have read, seen and heard enough to be convinced many times over of the abuse of children and women in that Aboriginal community. The abuse of women and children is not confined to that Aboriginal community, but that is the community that we are dealing with in this instance. On that basis I gave the Premier support for the passage of the Bill through this Parliament. However, what I have had in return is continual criticism from him, continual heckling in the media and continual attempts to try to score, I presume, some points out of it. I do not know whether the Premier has scored some points, but he has won no respect from me in the way he has handled this Bill in the Parliament.

Dr G.I. GALLOP: I repeat to the Parliament the background that led to the introduction of this Bill. That background was concern raised with the Government about continuing problems at the Swan Valley Nyungah

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Community, advice from the directors general of the relevant departments that there were unacceptable levels of risk at that community, a serious discussion by Cabinet about the means by which we could address this issue, and a solemn decision to use legislation rather than the powers under the Land Administration Act to deal with the problem. I underline the word "solemn". We explored these matters very carefully. We then brought the Bill into the Parliament. I appreciate the fact that the Leader of the Opposition expressed his support at that time, but the difficulty was that when the Bill got into the other Chamber all sorts of other processes started up. The truth of the matter about Western Australian politics today is that when we have to deal with the Liberal Party, we do not know who we are dealing with. When we were in opposition, the then Premier, Richard Court, would come to me and say he wanted something done, and he would know that he would get it done in both Houses of the Parliament. That is what we did. We cooperated on a lot of legislation. We had to make some very tough decisions on issues such as workers compensation, and on smoking regulations and legislation. However, we were capable of making them, and everyone in the Labor Party voted with the Government on those occasions because we had made an agreement to do so.

Mr M.J. Birney: That's because they don't have a brain; they can't think for themselves.

Dr G.I. GALLOP: If the message that the Opposition wants to send to the community is that its members can do whatever they like on any issue, only one message will go out; that is, if the Opposition is not capable of running its own show, it is not capable of running the State. That is the message that the Opposition will send out, and that is the situation that exists.

Mr C.J. Barnett interjected.

Dr G.I. GALLOP: If the Leader of the Opposition wants a definition of arrogance, he should look at all his contributions to this parliamentary debate and his performances in the media. That is the definition of arrogance.

Mr C.J. Barnett: You don't listen to a thing.

Dr G.I. GALLOP: We are listening all the time and looking for something from the Opposition that indicates it has, first, commonsense and, second, is capable of thinking beyond its born-to-rule mentality. However, we never see it. The Opposition's born-to-rule mentality leads it to be complacent about social issues, because it does not matter to the Opposition. Opposition members do not have the passion and the commitment that exist on this side of the House to fix things. It is all very easy for the Opposition. Some opposition members have supported the Government on this issue. I thank those members opposite who have given us good support for this legislation. However, there is too much complacency on the Liberal side, and always has been throughout Western Australian history. It is born-to-rule complacency. Unless the Opposition gets rid of that attitude, it will be sitting on the other side of the House for a long time to come.

Mr C.J. BARNETT: I will make a final comment. I offered the Premier, someone I have known since university days, an olive branch. His response is now recorded in history. I offered him an olive branch three weeks ago and again today in a genuine attempt to help get a piece of legislation, which I do not think is good legislation -

Dr G.I. Gallop: It's a funny olive branch. You accused us of acting in a racially prejudiced way and of undermining the rule of law. That's pretty good.

The ACTING SPEAKER (Mr J.P.D. Edwards): Order, members! The Leader of the Opposition has the floor.

Mr C.J. BARNETT: I offered the Premier unprecedented access to the processes of this Parliament. I offered it again today. I do not deny for a moment the difficulties that this has presented, because the Liberal Party operates differently from the Labor Party. That is one of the major differences between the parties. I will not respond to the Premier's attack. He has concluded this debate with an attack on me and on the Liberal Party. The Premier should not expect to ever get the generosity that he has had in this debate -

Dr G.I. Gallop: Generosity! Goodness gracious, that is a funny definition of it.

Mr C.J. BARNETT: The Premier has abused it. Despite what the Premier says, at no stage has he expressed sincere gratitude for what a few people in the Liberal Party Opposition have done to assist him to get this legislation through the Parliament.

Dr G.I. GALLOP: That last comment is not true. I just thanked the members opposite who have given us good support for this measure. I believe I said that, did I not? Just before I sat down, I thanked members opposite for what they have done on this issue, and I raised an issue. I have an obligation to raise this issue; that is, that there is a problem in Western Australian politics today with the relationship between members of the Liberal Party in the Legislative Assembly and their colleagues in the Legislative Council. I make that observation, and it is revealed -

Extract from Hansard
[ASSEMBLY - Tuesday, 3 June 2003]
p8021d-8061a

Dr Geoff Gallop; Mr Colin Barnett; Mrs Cheryl Edwardes; Mr Phillip Pandal; Acting Speaker; Ms Sheila McHale; Dr Janet Woollard; Ms Sue Walker; Mr Bob Kucera; Mr Tony Dean; Mr Matt Birney; Mr John Day; Mr John Bradshaw; Mr John Kobelke

Mr J.H.D. Day: They have brains, and they can think for themselves. That is quite right. The Legislative Council is a House of Review. It is not dictated to by -

Dr G.I. GALLOP: In other words, the member is acknowledging the point. Why would I have gone to the Leader of the Opposition on this issue? There is no point in it.

Mr P.G. Pandal: But you didn't.

Dr G.I. GALLOP: We did. Okay; they are the rules now. We will go to Peter Foss when it comes to issues that go to the Legislative Council.

Mr A.J. Carpenter interjected.

Dr G.I. GALLOP: That is obviously what is going on, and it represents a major problem.

Mr M.J. BIRNEY: One of the greatest underlying values that a modern-day political party can have is the ability of its members to vote according to their conscience or the best interests of their electorate. If a person happens to be unfortunate enough to be a Labor Party member of Parliament, do you know what the Labor Party does to that person, Mr Acting Speaker? It sticks a nose ring in his nose, drags him around, makes an absolute fool of him and makes him support the party line.

The ACTING SPEAKER: I do not want to start calling members to my right to order, but I will. I know it is late and there is a fair bit of humour around the Chamber. However, I want to hear what the member for Kalgoorlie is saying, as no doubt does Hansard.

Mr M.J. BIRNEY: It is not actually that funny. I was saying that if a person is unfortunate enough to be a Labor Party member of Parliament, the Labor Party whacks a nose ring in his nose, drags him around by the nose and does not give him an opportunity to think for himself. The Labor Party does not give a member the opportunity to stand up for his electorate or to appease his own conscience. The only thing that a member of the Labor Party is required to appease is in fact the Labor Party. That is what it is all about. People should ask the Labor Party about its preselection rules for somebody who crosses the floor and votes against the Labor Party. What happens to that person at preselection? We all know, do we not? That person gets the chop. If that person votes in favour of his electorate, against his political party, being the Labor Party, he becomes ineligible for preselection the next time around; he gets the chop. It is as simple as that.

We on this side of the House have some values and integrity, and we believe that we have been put in this place to represent our electorate first and our political party second. We on this side of the House in the Liberal Party have a conscience, and we are committed to exercising that conscience in discharging our parliamentary duties. That is the major difference between the Liberal Party and the Labor Party. Labor Party members cannot think for themselves; they cannot do anything for themselves, whereas we can vote according to our conscience and our electorate. I am proud to be in a political party that has a diversity of views and allows its members to express those views according to their own conscience. I would be absolutely and utterly ashamed to be a member of that lot opposite, whereby members cannot think for themselves but are simply a number. They are those people who stick their hand in the air when the Premier turns around and tells them to do it. That is not the case on this side of the House.

Question put and passed; the Council's amendment not agreed to.

The Council acquitted accordingly.