Parliamentary Debates
(HANSARD)

THIRTY-NINTH PARLIAMENT
FIRST SESSION
2016

LEGISLATIVE ASSEMBLY

Wednesday, 19 October 2016

Legislative Assembly

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THE SPEAKER (Mr M.W. Sutherland) took the chair at 12 noon, and read prayers.

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

BILLS

Notice of Motion to Introduce

1. School Boarding Facilities Legislation Amendment and Repeal Bill 2016.

Notice of motion given by **Mr J.H.D. Day (Leader of the House)** on behalf of Mr C.J. Barnett (Premier).

2. Oil Refinery (Kwinana) Agreement Amendment Bill 2016.

Notice of motion given by **Mr W.R. Marmion (Minister for State Development)**.

"TRANSPORT @ 3.5 MILLION: PERTH TRANSPORT PLAN"

Statement by Minister for Transport

MR W.R. MARMION (Nedlands — Minister for Transport) [12.03 pm]: I take this opportunity to update the house on the progress of the public consultation period for the "Transport @ 3.5 Million: Perth Transport Plan". The Perth transport plan for 3.5 million people and beyond sets the vision for a generational change to Perth's transport network. The plan was launched on 29 July 2016 and is open for public comment until 28 October 2016. This major cross-portfolio plan examines possible long-term structural changes in Perth's transport network by looking at options for demand management, cycling, public transport, freight, roads and river crossings. It draws on expertise within the state's transport agencies, universities, recent research and global knowledge.

Under the plan, Perth's public transport system will be significantly expanded with the expansion of rail lines, dedicated bus rapid transit lanes and a light rail inner orbital link. Road transport will remain the dominant way for people and freight to travel. The plan expands the city's core system of freeways, in particular by upgrading existing highways to freeway standard. It also recommends increasing Perth's cycleway network from the current 172 kilometres to more than 850 kilometres and implementing a number of optimisation strategies to improve network efficiencies and help people make good travel choices.

The plan is available on the Department of Transport's website, together with six technical reports, fact sheets, maps, frequently asked questions and online feedback forms. To date there have been more than 2 500 downloads of the plan and more than 48 000 website visits.

The transport portfolio, which comprises the Department of Transport, the Public Transport Authority and Main Roads WA, has held technical briefings for local government and industry groups. After the public comment period closes on 28 October 2016, the transport portfolio will consider all submissions. Changes to the Western Australian Planning Commission's Perth and Peel@3.5 million land use plan, which has also undergone an extensive consultation process, will also inform the final plan. The revised transport plan will be submitted to government for approval. Once finalised, the plan will provide a blueprint for Perth's transport future as we move towards a population of 3.5 million and beyond. I encourage anyone who wants to be part of shaping the future direction of transport in Perth to make a submission before the consultation period closes on 28 October 2016.

BUSINESS OF THE HOUSE — PRIVATE MEMBERS' BUSINESS

Standing Orders Suspension — Motion

MR J.H.D. DAY (Kalamunda — Leader of the House) [12.06 pm]: I move —

> That so much of standing orders be suspended as is necessary to enable private members' business to have priority on Wednesday, 19 October, between 4.00 pm and 8.00 pm.

To explain for the benefit of members of the public in the gallery, agreement to this motion will enable us to sit past the normal conclusion time of 7.00 pm for as long as is necessary.

Question put and passed.

BUSINESS OF THE HOUSE — DINNER SUSPENSION

Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): There will be a dinner break this evening between 6.00 and 7.00 pm.

MEMBER FOR KIMBERLEY

Leave of Absence

On motion by **Ms S.F. McGurk** on behalf of Mr D.A. Templeman, resolved —

> That the member for Kimberley be given leave of absence from the Legislative Assembly until 10 November 2016 on account of urgent private business.

CONSTRUCTION CONTRACTS AMENDMENT BILL 2016

Second Reading

Resumed from 22 September.

MS J.M. FREEMAN (Mirrabooka) [12.07 pm]: I have the privilege of being the opposition lead speaker on the Construction Contracts Amendment Bill 2016. Members in the house know that although we on this side of the house support the bill, we think that it has been a long time coming. Issues with subcontractors came to the fore and to the house's attention in 2012 when it was revealed that the Building the Education Revolution projects, which were managed by the Barnett government, combined with the financial failure of head contractors, resulted in family businesses paying the cost. It was very emotional for many people in this place and, clearly, it had a big impact on subcontractors and small business in our community.

Indeed, on 23 October 2012, the Leader of the Opposition, the member for Rockingham, moved a matter of public interest motion during which the issue of subcontractor non-payment was debated. He moved —

> That this house condemns the Barnett government, and particularly the Minister for Finance, for its failures in relation to the non-payment of moneys to subcontractors working on government-funded or government-managed construction projects.

During the debate, the opposition pointed out that the government in contracting two companies and managing the finances had a responsibility to ensure that the people on the ground doing the work were paid. The government simply saw the issue as one of contract disputes. That would be fine if it was an equal power situation.

However, when a contractor who has the government contract is paid the bulk of the contract money, the community as a whole fully believes that the system should be administered to ensure that contractors receive a fair day's pay for a fair day's work. It is pleasing to the opposition that after such a period this Construction Contracts Amendment Bill is in front of us. It will ensure that processes within the Department of Treasury ensure that progress payments are made. I stand here to say that the Labor Party agrees with the changes the bill seeks to make. But we say that more changes could be made and that the government has not been efficient and effective in ensuring that the problems raised in 2012 are being addressed.

I congratulate particularly Hon Kate Doust in the other house in her pursuit of this issue to gain fairness for subcontractors and workers in this industry. I congratulate also the Leader of the Opposition for pursuing this issue and highlighting the inequities in the industry and seeking to ensure fairness for workers delivering on the ground the projects we want to see, such as the Building the Education Revolution buildings, the projects at Princess Margaret Hospital for Children and other buildings that advantage our community. Hon Kate Doust and the Leader of the Opposition have led the way in seeking to ensure the government responds.

It was unsurprising when, on 2 August, the Leader of the Opposition and Hon Kate Doust, the shadow spokesperson for small business, announced Labor's proposed changes and weeks later the government announced its proposed changes to the bill to ensure limited progress payments would be paid for government contracts under a certain value. The government was reacting, and that is welcomed by this side of the house but was, in the words of the shadow spokesperson, too little too late. This bill was introduced over a year after the government had received the very comprehensive Evans report on the Construction Contracts Act 2004. Professor Evans completed the independent statutory review of the Construction Contracts Act in September 2015. The methodology behind that review was very comprehensive. I understand it made 28 recommendations, many of which the government has accepted and which we see before us in this bill.

We know that the building and construction industry accounts for 12.5 per cent of the state's gross domestic product. That may have increased somewhat since the decrease in the mining industry, but that is the latest figure I have. It employs some 10 per cent of the total workforce. The employment aspect of this industry has clearly changed over time. We have seen it being one of a direct employment relationship whereby companies have directly employed tradespeople and been able to deliver projects in total. Changes occurred to government contracting in the late 1980s when the Building Management Authority began contracting out its labour force and no longer employing people to deliver contracts. As a result, the government is now very much in the business of contracting to builders for delivery of buildings and facilities on the ground that we want for our community. In doing that, it is very clear that the government is still responsible for ensuring that buildings are up to standard, that people who are working on a building can have their disputes resolved and that contract provisions are not unfair and can operate effectively and efficiently in delivering projects to the head contractor.

The Construction Contracts Act was passed in 2004, some 12 years ago, but clearly there are still some difficulties. The Western Australian act is different from those in other states, and I will talk about that shortly. As I said, the frequency of non-payment of contractors has been a key issue for the community in the last four or so years. It has certainly risen. In the time I have been a member of Parliament, problems arising from phoenix companies—companies that declare bankruptcy and re-emerge as a different company—have been an issue for many small contractors in the housing industry. We have seen an increase in housing construction in many of our suburbs across the metropolitan area due to increased housing density.

As I said, we welcome the changes to the act introduced in this bill, which will reduce the maximum time a head contractor can take to pay subcontractors from 50 to 30 days. We remember the great controversy when BHP Billiton and Rio Tinto, as I understand it—I am happy to be corrected, but I believe it was those two companies—advised their subcontractors that they would not pay their accounts for 50 days; whereas, previously, they had paid within 30 days. There were many discussions on talkback radio about the impact of that practice on the community and the viability of many subcontractors. If they employ other workers or apprentices, this can have a knock-on effect, which is very distressing for small businesses managing very tight budgets to deliver projects.

Changes introduced in this bill will increase the time for rapid adjudication from 28 to 90 days. It appears that many small subcontractors would wait out the 28 days during which the payment was not being made, and would not take dispute resolution action because of the fear of retribution. We know that people who feel that they have been harshly treated by their boss in many instances will not necessarily take action for fear that that would undermine their security of employment. If we are really honest, we would see that subcontractors are placed in a situation in which, although they have established themselves as businesses with an Australian business number, for all intents and purposes they are reliant on the head contractor, as an employee would be reliant on an employer. I understand that the government made this determination based on the Evans report finding that increasing the period from 28 to 90 days would result in people not being disadvantaged. I understand that the report was extraordinarily comprehensive. A discussion paper was put out in the first instance, and thousands of businesses were contacted and advised that they could respond to the discussion paper. I understand that about 70 per cent of respondents to the discussion paper—quite an overwhelming majority—agreed with changing the adjudication time from 28 days to 90 days. However, that still leaves a number who felt that the status quo was appropriate.

In reading this bill, I was reminded that, under industrial relations legislation, an unfair dismissal application must be lodged within 28 days, but a complainant can apply for an extension of time if the circumstances are given. I did not see it in the Evans report, so I was wondering why no consideration was given to retaining that four-week period, which means that the evidence is more contemporaneous, and providing the capacity to seek an extension, which would be given unless the action was frivolous. I understand that adjudication is not determination; it is much more a mediation and conciliation process than an arbitrated process. However, one difficulty that is always faced when things are left for any length of time in a dispute is that it gives an advantage to the person with the greatest systems in place—often the head contractor, which, being a larger company managing projects and process, tends to have the capacity to document things and take contemporaneous notes of any on-site verbal discussions. The longer the time allowed for dispute resolution, the more disadvantaged the less resourced party to a dispute becomes. That is simply because, with the effluxion of time—that is a word I love, because it is a contract word—and the further away from an event we are, our recollection of an event assumes a certain manner. Someone with the procedures and resources to document the process tends to have an advantage. I acknowledge that this measure is based on Professor Evans' report and allows the rapid adjudication to take place within 90 days and I accept that it resulted from a feeling that within 28 days there was often still goodwill between a head contractor and a subcontractor, which would, within a three-month period, have deteriorated to such a point that a person would be seeking adjudication. The difficulty there is that if the goodwill has deteriorated to that point in that 90-day period, we start to get into the contract law aspects as well. I understand that that change is introduced through this bill. I just put it out there that there may have been a different way to do it, but the opposition is in agreement with the changes in the adjudication time.

I understand that the flexibility and enforcement of adjudication will be amended by this bill. It is interesting that, given that adjudication is not determination as such, it means that there is a capacity for the adjudication to be taken to the next stage in seeking resolution. There is no doubt that the less complex and less legally difficult situation for a subcontractor, given that their resources are less than those of the head contractor, is very important. There are many buildings along the Terrace built by law firms that have made contract law their speciality, so the capacity to avoid being caught up in the legal technicalities of contracts is extraordinarily important in situations involving a head contractor and a subcontractor. I am sure that, when I am sitting in the Speaker's chair after my speech, I will get a greater understanding of how other people view this matter. That may happen at the end of my speech.

Ms L.L. Baker interjected.

Ms J.M. FREEMAN: Thank you, member for Maylands!

I also understand that the changes introduced in this bill will exclude normal construction work on processing facilities, as is explained in the explanatory memorandum, which I highlighted, although now I cannot find the bit that is highlighted.

I understand that section 4(3)(c) of the Construction Contracts Act will be refined to make clear that only the fabricating and assembling of items of plant used for extracting or processing oil, natural gas or minerals will be excluded from the definition of construction work, not the normal construction work on a processing facility. I ask the minister to outline that a bit more during his second reading reply, because the difficulty we often have after excluding from, or including in, areas of acts is that sometimes things fall between the gaps. The member for Eyre would be only too aware of that, having taken part in the inquiry into fly in, fly out workers. The Mining Act does not cover the mining industry if the accommodation camp is off the mining tenement area. A camp is not covered for the purposes of occupational health and safety, even though a company requires its workers to live there. From my perspective, and certainly that of the Education and Health Standing Committee, for legal purposes those workers would be under the confines of the duties of work, but because a camp is outside a tenement area, the workers are not covered, nor are they covered by the general Occupational Safety and Health Act. I am keen to get a better understanding of what that means in this process. If it includes a certain section of the work but not another and a dispute were to arise with a subcontractor, under what terms and conditions would that subcontractor have the opportunity to pursue and have adjudicated a dispute?

I have said that the Construction Contracts Amendment Bill 2016 is based on Professor Evans' review. I thank the advisers for giving me a briefing, but I definitely wrote down, during the discussion with the advisers, that 11 of the 13 recommendations of the Evans review were accepted; however, I see that 28 recommendations were made. I asked during the briefing which two of the 13 recommendations were not accepted. I seek clarification from the minister of how many of the 28 recommendations were accepted, and I would like an understanding of why the others were not. I think that would benefit the house should any future legislation arise around this issue.

I understand that one of the things from the recommendations of the Evans review not accepted for this legislation was that contracts should be in writing; Professor Evans recommended that. The advisers told me that the current act covers oral contracts and implies certain duties for a subcontractor and a purchaser and that there can be both oral and written contracts or there can be a combination of the two. The advisers said that the Evans recommendation was not appropriate, given that some contracts are small and cover subcontractors having discussions on-site. I accept that if a small business subbie comes to my house to fix a fence that blew over in a big storm, I may not want a legalistic contract, but an exchange of the work to be done and the agreement around it seems completely appropriate. In this day and age of emails, I think that is really important.

I represent a really large culturally and linguistically diverse community, and many of those people work as subbies in the construction industry, particularly on the cottage housing industry. They may not have an understanding of oral agreements. I think it is really important to have a simple contract that shows the implied terms that are very much a part of this legislation and, I understand, the recent changes in consumer laws federally. In this day and age lots of people own a smart phone—I have not seen the figures, but I think a vast number of Western Australians do—and press "agree" to a contract with their smart phone software provider. Every time we download a telephone upgrade or an app, we press "agree". People understand that the terms and conditions of engagement are commonplace, and it is not always about an oral agreement. As to the recommendation for written contracts, more importantly written contracts could be in a format defined in the regulations and could outline the adjudication of dispute resolution procedures.

One of the greatest problems with dispute resolution is not knowing how we can quickly and effectively resolve a dispute. The quicker that is done, the less likely it is that there will be a breakdown in relationships and the goodwill can continue. I think it would be detrimental to the ongoing relationship between a contractor and subcontractor if an ongoing dispute festered. A subbie may be saying, "You need to pay my interim payment", but the contractor may be saying, "No, you haven't completed this part of the work", to which the subbie may say, "Yes, I think I have." It is detrimental to the ongoing quality of the work if the subbie feels badly treated. If there is a written contract that outlines how someone is to be paid and a dispute arises about staged payments, it can be quickly and easily adjudicated in a manner that can maintain an ongoing relationship. The last thing we want to happen is for a subbie to say, "I don't have to provide a quality job for this bloke. I don't have to mix the cement properly or add the right amount of lime." Later on I will talk about white set plaster. I have previously raised in the house the issue of white set plaster, and I will use it as a good example of what can happen in the cottage industry around contractors and subcontractors. I simply do not agree with the idea that written contracts are cumbersome. If an agreement between a subbie and a contractor is written down, it mitigates risk. I think that is really important.

I note the changes to consumer law that relate to this issue. Can the minister clarify whether we have to make changes to the Western Australian consumer legislation that reflect the amendments to the national Australian consumer law? This is an area of standalone legislation, and we cannot simply adopt the national consumer law.

I am interested to know how the consumer law has been adopted. Professor Phil Evans wrote a letter to the editor in *The West Australian* of 29 August 2016. It states —

> … recent amendments to the Australian Consumer Law … will apply to any standard form contract entered into or renewed on or after November 12 this year.

That would be in 2016 —

> A standard form contract is one that has been prepared by one party to the contract and where the other party has little or no opportunity to negotiate …

The letter explains that, and I quote from further on —

> If a court or tribunal finds that a term is "unfair", the term will not be binding on the parties.

This is a protection for small businesses. I wonder whether that perspective will apply given how our consumer law takes a bit more time to adopt.

As I understand it, the Western Australian Construction Contracts Act applies to contracts to perform construction work or provide related goods and services on a site in WA. "Construction work" is defined in section 4 of the act, and there are exclusions at section 4(3), which will be amended. As stated previously, a contract for work can be oral, written, or a combination, but it cannot include pay-when-paid provisions. A contractor cannot say that they will pay a subcontractor when they get paid. That seems a bit odd but I think it is perfectly reasonable and a good way to do contracts. Of course, there is also no capacity to contract out of the rights under the WA act.

I understand that the act is based on the Northern Territory model as compared with the east coast. The east coast model is security of payment legislation. I would appreciate the minister giving me a better understanding of the differences between the east coast legislation and ours. It seems to me that with increasing numbers of head contractors who are big, Australia-wide, if not multinational, companies, having different contract laws for subbies should be a thing of the past. We should have consistent contract laws across Australia and not differences based on being in one state or another. That seems to me to be anathema to harmonisation and good, effective and efficient business. I am really interested to know why we have not followed the model of consumer law or the previous Minister for Health's model. He is in the chamber; he has done that with many occupations in health, including some of the requirements in public health. That seems to me to be somewhat anathema.

My understanding, and I am happy to be corrected, is that the difference between the Western Australian model and the east coast model is that we focus on adjudication of payment disputes and the east coast focuses on resolving payment claims. Professor Evans argues that adjudication of payment disputes is a "pay now argue later" type of process in which adjudication payments are interim in nature and do not affect the parties' rights under the common law of contract. He argues that the emphasis is on maintaining cash flow. However, in the east coast model, a claim can be made by a party for payment due under agreement. I wonder whether that is where the differences lie.

The minister's second reading speech states that the current bill provides —

> … building contractors, subcontractors and suppliers with a right to be paid within a reasonable period of time, and a low-cost method of enforcing that right.

However, that is clearly not the case as the speech goes on to highlight a second raft of reforms that are clearly needed for security of payments. My understanding from the advisers is that it is seen as the beginning of changes that may be required in other areas of the Construction Contracts Act. I spoke before about how the time for adjudication will change from 28 days to 90 days.

This shows that people can learn a new thing every time they come across a new act; I was really interested to learn something about this sort of adjudication system. I come from a workplace that dealt with workers' compensation and industrial relations in which conciliation, mediation, arbitration and review systems are always done within government departments. For example, if a consumer wants a dispute to be looked at by the Building Disputes Tribunal, a determination is made within the tribunal. I was really surprised to find out that adjudicators are independent people who stand outside of government and there is no regulation on how they do their adjudication—none whatsoever. They are appointed by contract. Often, two builders can go to an organisation—I have forgotten what it is called, but it is often the Housing Industry Association or Master Builders Australia—to ask for an adjudicator. That adjudicator is then appointed to them. I was really quite surprised that adjudicators are not with a government department; they are simply part of a contract for dispute resolution. If I were a head contractor and I had a written contract with every one of my subbies, I would put an adjudicator whom I worked with all the time in my contracts so that if I had a dispute with a subbie, that adjudicator would understand my ongoing business because they would have adjudicated my issues previously. They would understand the processes that I undertake. They would also have an ongoing goodwill relationship with me because they would need to resolve disputes in other areas. I am not suggesting at all that there is bias—

and certainly the report by Professor Evans did not find any—but a head contractor cannot have an ongoing relationship with someone like an adjudicator who is independent and not expect that the resolution would have a certain frame and perspective because of that ongoing relationship. In a dispute, there are two sides to a merit-based argument and the adjudicator has to decide which one has more accuracy in the way that it describes how the business operates. If an adjudicator has an ongoing relationship with one particular entity—the head contractor—and they do not with the subcontractor, they will clearly have a previous history of thinking that their perspective is more accurate than the subcontractor's. I imagine that that would lead, in some cases, to a feeling by the subcontractor that they did not get a fair "hearing"—this is an adjudication not an arbitration. They may feel that they did not have a fair capacity to put their case about why a dispute is ongoing. The independence of these adjudicators is a real issue. I also understand that there is a 50–50 payment for adjudicators; both a head contractor and the subcontractor have to pay for the adjudicator if there is a dispute.

The situation seems to be that someone who can least afford it has to pay half the cost. It would be far better if this process was undertaken in a manner that is done in other workplace disputes, such as industrial relations and workers' compensation disputes—within the capacity of somewhere like the Western Australian Industrial Relations Commission. It is not as though the Western Australian Industrial Relations Commission does not have the capacity. I would like to put on record that that is clearly not the policy of the opposition.

I understand that the area around adjudicators will be further reviewed. My initial view is that we need to look at a more formalised structure because that is fairer for subcontractors. An adjudicator must determine the dispute within 14 days. The application can be dismissed on technical grounds, but I understand there is no right of appeal. The matter could always be pursued under common law rights. The determination is binding. The reasons must be in writing, including the amount to be paid, which may include interest, and the date for payment. The contractor can suspend work if the payment is not met. The situation now is that there will be a review of that process.

It is an area that still needs attention. It is not enough to simply extend the time for adjudication. We also need to think about how that adjudication can be done so that both parties to the dispute feel the outcome has been a good one. I also understand that the Evans report refers to an education program to promote the act. He found that part of the problem was that the adjudication and dispute resolution provisions were not well known. That could be made part and parcel of a written contract. We recently debated the Residential Tenancies Amendment Bill. We have gone from tenancy agreements written by individual tenants. The Department of Commerce has a good understanding of agreements and contracts. It decided to supply prescribed tenancy agreements. The parliamentary secretary said the importance of prescribed tenancy agreements was so that both parties, particularly tenants, understood the dispute resolution process. It would seem to me that that justification would probably apply in this instance. I am interested in the minister providing an outline of how that recommendation has been acted upon in terms of educating and promoting the act.

The government has introduced limited project bank accounts. Part of the Minister for Finance's media release of 30 September states —

> Project bank accounts will be applied to projects tendered by Building Management and Works from September 30, 2016, with a construction value of more than $1.5 million and involving one or more subcontractors.

I understand that is a move forward from the 2012 debate when a certain position was taken by the Treasurer in the first instance. I note that an article in *The West Australian* on 12 August 2016 stated —

> But the biggest government construction jobs, run by Treasury's Office of Strategic Projects, will not adopt them.

That is the project bank accounts. It is WA Labor's view that it certainly should. Hon Kate Doust's media release states, in part —

> Unlike WA Labor's plan, the Liberals have not included the creation of Project Bank Accounts … on State Government projects worth more than $100million, such as the Perth Children's Hospital.

This is a deficiency. Obviously it is not in the bill, but I am happy to be guided to where it is in the bill. I am sure that it has not been included in this bill. Those areas are some of the biggest. They include some of the big projects where subcontractors have been out of pocket, such as the Perth Children's Hospital. We know that is being worked on. It would be interesting to hear from the minister why that has been limited. The context might be that the minister wants to do a bit of a "suck it and see" how these operate to see whether they are effective. The reality is that this issue has been ongoing at least since 2012, if not longer, and therefore needs immediate action.

Another recommendation was a building industry code of conduct for tenders on government-funded construction projects. I am interested to know where that is at. I am happy to hear whether it has been released. Codes of conduct tend to need a bit of time. I am not aware of it being around but I am happy to be corrected if I am wrong.

I refer to the first issue I raised about phoenix activities; that is, companies that rise again under a different guise after going bankrupt. Members from the community that I represent have given me examples of that and I have raised that in this house. People are left with no legal recourse when that happens. Sham contracts are another issue. I suppose I cannot really call them sham contracts as such; it is that whole aspect of how people manipulate the bankruptcy legislation. I note that an article published on 26 September 2016 in *The Conversation* by Helen Anderson, a professor at the University of Melbourne, stated —

> A Productivity Commission report last year found there were between 2,000 to 6,000 phoenix companies operating in Australia, costing A$1.8 billion to A$3.2 billion per annum.

She went on to say that a research team from the University of Melbourne and Monash University, in contributing to this Senate Economics References Committee, recommended that directors be forced to undergo a 100-point identity check. She said that would enable tracking of directors who have been involved in multiple failed companies.

Certainly, the issue was not directly referred to in the Evans report, or maybe I just did not see it. I must admit that the report was very comprehensive and extensive and I gave it a reasonable read, but I cannot say that I gave it the comprehensive read that it has been given by the minister. I did not see a comment on that sort of phoenix and, frankly, predatory behaviour of businesses that use the bankruptcy laws to avoid paying subcontractors. I noted in the government's response to the Evans report that it is very aware that the pyramid of subcontractors means that payment default or business failure higher up the contracting chain continues to put those businesses further down the chain under significant financial pressure. If that is the case, we need to ensure that they have every recourse possible. If companies are using laws to avoid those sorts of payments, clearly the government needs to respond to that not just in the manner before us, but in a manner that will ensure that all those workers are protected.

My belief is that this business model of contractors, subcontractors and sub-subcontractors is detrimental to workers and, frankly, to consumers. Recently, my back fence blew down in a big storm. I rang the insurance company and I was asked whether I wanted to go through the company's contractors. I thought that sounded like a good idea, as I thought it would happen quicker. Those contractors did not get back to me, so I got on to the insurance company and then the contractors got back to me. They sent out their subcontractor to look at it and that subcontractor then sent out his subcontractor to fix it, but, unfortunately, his subcontractor's subcontractor had a bad back. The actual worker was four levels down in the insurance process. I know who is paying the premiums. The head contractor subcontracted to the subcontractor who subcontracted to another subcontractor who subcontracted to the person on the ground who installed my fence. There has to be a cost to that, apart from the inconvenience of doing the different work between the four levels. During that time, I did not know what the contractual arrangements were, including times and dates. Of course I was contacted to set up times, but it was quite an interesting process. The next time an insurer asks me whether I want to go through its contractors, I will say, "No; thanks very much. I will get someone out myself and when I get the bill, you can pay the bill." That is the arrangement that can be made.

At page 12 of his report, Professor Evans quoted from the report of the inquiry into the building industry of Western Australia and he stated —

> It is interesting that … Mr C H Smith QC in 1973 … noted that the growth of the subcontracting system has brought with it a 'waning of the traditional master builder and the entry of the entrepreneurial builder.' Clearly these observations can be confirmed 40 years later.

That is the case and I think that has a detrimental effect on apprentices in our community. If we are to continue with this head contractor model, under which subcontractors subcontract to various other subcontractors, parties of both persuasions need to consider placing a responsibility on them to ensure there is long-term security of employment for people. The idea of the trickle-down effect whereby someone at the bottom will be able to make money is just not the case. As far as we can see, there is no commitment to compensation for the subcontractors who are out of pocket from working on government projects including the new Perth Children's Hospital, Elizabeth Quay, the new Perth Stadium and the public works undertaken by the now insolvent CPD Group, which had 17 state government contracts worth $17.6 million. What we can see from that is that not only is it not sustainable in how our community trains people—that is my personal view—but also this new entrepreneurial model of builders is not a sustainable financial model. We as policymakers need to address that in a way that clearly delivers the best and most efficient product for taxpayers and does not undermine the wellbeing of the community as a whole in terms of training, providing appropriate services and developing our community.

In saying that, I point out to the minister that this is what is happening in the cottage industry with white set plaster. The Minister for Commerce and the Building Commission received a report on white set plaster that outlined that 2 000 new homes are affected each year, with plaster walls that are soft, crumbly or cracked instead of being hard and durable. That is about 10 per cent of all Western Australian homes. When I asked during the estimates committee what the Building Commission was doing to inform consumers, I was told that it was

working only with builders and was not informing consumers. The report that the minister has before him highlights that the white set plaster problem is almost completely restricted to Western Australia, because the eastern states tend to use plasterboard. The difficulty is that a group of people in the community have subcontractors who are doing substandard work and the consumer has no understanding of it. When the painters come in, they blame the finishing trade, when that is not the case. If the minister wants to hear more about this and other issues in our building industry, there is a Facebook site called Shonky Builders WA. It is a major concern for many consumers that substandard products are being used in their most expensive investment—that is, their home. This government has been asleep at the wheel not only with its response to the Construction Contracts Act, but also with what it is doing for those consumers.

MS L.L. BAKER (Maylands) [1.07 pm]: I rise to pursue a different angle on the Construction Contracts Amendment Bill 2016, and I will explain why in a moment. This is the second reading debate of the Construction Contracts Amendment Bill, which is really about the relationship that the Crown has with service providers, be they building contractors or anyone else under the construction contracts umbrella. The bill has some very good technical improvements for the sector. I am sure that builders who have complained to me that they have not been paid or that instalments have been delayed for an unacceptable time will be looking forward to seeing the passage of this bill.

The relationship between the Crown and service providers or contractors or, indeed, anyone who has a government contract is an interesting one and can be somewhat tumultuous. I want to put on record a particular example of an activity that is currently underway that I find fairly incredible. This issue relates to a contract or a memorandum of understanding between the Department of Agriculture and Food Western Australia and the RSPCA. I want to talk about it because I think it is a good example of dispute resolution processes that are not clearly functioning effectively or MOUs that are not working effectively for whatever reason.

At the heart of this is the issue of conflict of interest and whether it is appropriate to have animal welfare being monitored by an organisation that is about agribusiness. Let me just put this as briefly as I can. About three and a half to four years ago Roxy, who is a borzoi dog, was the subject of a call to prosecution and was subsequently forfeited to the Crown when her owner was found guilty of animal cruelty under the Animal Welfare Act 2002. She was found locked in the back of a panel van at Carousel shopping centre on a 37.8 degree day in December 2012. The dog was immediately taken to the vet and diagnosed as suffering from heat stroke. The owner was prosecuted by the RSPCA inspector for an offence of animal cruelty under section 91 of the Animal Welfare Act 2002 and was convicted in the Magistrates Court on 20 June 2014. The owner was legally represented at the trial. Sentencing was on 19 September, so several months later. The sentencing happened in 2014 and included a fine and an order that Roxy be forfeited to the Crown, with the magistrate making this order based on the persisting attitude of the accused that she did not do anything wrong. The next month, on 24 October 2014, the owner commenced an appeal to the Supreme Court against that conviction and sentence and again was legally represented. The appeal was dismissed by the Supreme Court on 5 January 2016 and the order forfeiting Roxy to the Crown upheld. In handing down his judgement on that appeal, Justice Corboy noted the denial of the wrongdoing to Roxy by the owner. The record states —

> The magistrate noted that the appellant had shown no remorse or insight into her offending: 'perhaps the most troubling aspect of the offending is the complete and utter absence of any remorse' and 'even today, the accused seems to be in denial of having done anything wrong' (19 September 2014, ts 196). His Honour gave detailed consideration to the sentencing factors prescribed by s 6 of the *Sentencing Act 2004* (WA) and found that general and personal deterrence were significant factors in sentencing the appellant.

There is no legal implement stopping the RSPCA from continuing to rehome the dog. The forfeiture of 19 September allowed it to do that. This dog has been in the care of the RSPCA for more than three and a half years. The dog did not do anything wrong. This is a conviction under the Animal Welfare Act and the heart of that act is about protecting animals from cruelty and making sure they are treated correctly. That is what that act is about. It is a prosecution under that act. What is the issue? The issue is that the Department of Agriculture and Food Western Australia has now asked that the RSPCA not rehome the dog. In fact, I understand that DAFWA has directed that the dog be returned to it. I find this completely insane, and I do not understand on any level how DAFWA considers this is an appropriate course of action. Since the sentencing, the owner has been aware that the RSPCA proposed to rehome Roxy and it was submitted to the magistrate by the RSPCA prosecutor that following a forfeiture order, Roxy would be immediately rehomed. The RSPCA identified a suitable carer for her and she was placed in temporary care with an experienced borzoi dog owner in South Australia. Indeed, the RSPCA often finds homes for dogs, cats and the like. When the owner goes to the eastern states, it does not stop the dog from being rehomed—there are no impediments there. The carer that Roxy now has has agreed to make sure she has the daily medications and behavioural support monitoring that she needs. To date, the care and treatment of this dog, which under veterinary terms has special needs, has cost the RSPCA tens of thousands of dollars. From February 2013—this is three years ago—the owner has lost various complaints with the

Department of Agriculture and Food about the case. She raised allegations of abuse of process and lack of procedural fairness in her appeal, but again these have all been dismissed in a court of law, not once, not twice but, I believe, three times, along with all other grounds of the appeal. However, the owner's complaints cannot change the binding legal effect of her conviction and sentence, including the order that Roxy is forfeited to the Crown. The former owner ceased to be the legal owner of Roxy on 19 September 2014.

I think throughout this matter the RSPCA WA has demonstrated that it has conducted procedural fairness according to the letter of the law at all times. I was told in my regular briefings from the RSPCA that for some reason DAFWA has now contacted the RSPCA and told it that it needs to return the dog to the state and that DAFWA will accept all the charges involved in doing so. We do not know whether DAFWA will rehome the dog; there is a question mark over that. DAFWA just wants the dog back home in the state and it will pay all the bills for it. I am sorry, but there is a contract with the Crown in which the memorandum of understanding specifically states that the RSPCA is the agency that has the right to move these prosecutions forward. The Animal Welfare Act is government legislation enforced by public officers and the RSPCA are public officers under the act. There is no sensible legal argument that I can see on which DAFWA can pursue this, yet it is spending money with this agreement that it should probably have spent, one would argue, on protecting farmers in Harvey who cannot get milk contracts and the like. This is not an acceptable form of government contracting. It is not acceptable when a body under the Crown has a relationship with a not-for-profit organisation in this instance and is clearly pursuing it for matters that I find completely inexplicable. I think it is time that DAFWA got on with protecting farmers in WA, not prosecuting cases against the RSPCA.

MR C.J. TALLENTIRE (Gosnells) [1.17 pm]: I rise to speak to the Construction Contracts Amendment Bill 2016 and make a contribution to the debate. I note that the issue of relationships between contractors and subcontractors is often fraught. There are many challenges and a definite power imbalance occurs because the head contractor has a very strong relationship with a client who expects a service to be delivered in a timely fashion, that a certain quality of work will be delivered and that all sorts of time lines and regulatory obligations are met. They have their relationship with the head contractor and they assume that the relationship that then exists with the subcontractors is of a similar level of detail. I suspect that that is not really the case and too often the relationship between the subcontractors and the head contractor is not at all similar to the relationship between the head contractor and the client. That leads to many, many problems with the quality of work delivered to the client, the customer, and it also goes to the primary focus of this bill—that is, problems with the manner in which the subcontractors are paid. A lot of this gets back to the philosophical position of parties when it comes to good regulation. If good regulation is in place, many of these problems can be avoided. We know that this current government makes great fanfare out of getting rid of anything that resembles regulation. It loves to talk about how red tape is such an impediment to the successful, flourishing business opportunities in this state, when in reality if there is not some degree of regulation in place, there are problems; that is when there are all the sorts of troubles that I am going to address in this speech.

There are some really interesting examples in the construction industry, especially as it relates to the housing sector. We know that roughly some 20 000 units are built every year in Western Australia; of course, there is fluctuation on that, but we have gone through a period of great activity in the residential property construction sector and that is slowing down quite dramatically. There is a definite correlation between the movements of the economy as a whole and activity in the resources sector, and we are seeing a displacement of the workforce from the resources sector into the construction industry in general. Not only is there workforce flow-on, there is also flow-on in terms of the amount of investment and activity in the sector. I am very concerned about the quite rapid slowdown we are seeing in the construction sector, which is also a reflection of the level of interest we have in the general property market and the slowdown we are seeing there. Overall, we have a slowing down of our economy.

Perhaps, though, this can provide us with an opportunity to catch up and check that we have the right regulatory framework in place and that we have the relationship between contractors and subcontractors properly organised and properly developed, and that it is done in such a way that our subcontractors' financial commitments are properly met and, most importantly of all, that consumers' and clients' needs are properly met.

It is very sad when we hear about some of the things that are going on. Reports appeared yesterday in WAtoday on the collapse of Collier Homes. That has already had one major consequence: a Family First Senator, Mr Bob Day, has resigned from federal Parliament because of the collapse of Collier Homes, a company that he was intimately involved with. We know that there are currently some 30 homes across Perth under construction with Collier Homes. I am sure that Collier Homes was a major user of subcontractors, so I am very concerned about how those subcontractors will be treated through this process and how they are going to fare when they try to get paid for work they have already undertaken. There is a real risk that some of those subcontractors could be left without payment for the work that they have already done for Collier Homes, and meanwhile we have a terrible situation in which people who have invested substantially in new homes that are partially built are going to be left with all kinds of difficulties in getting their homes completed. I understand that there is a form of

building indemnity insurance that is administered, I think, by the Building Commission, but it provides a maximum payout of $100 000, and I would imagine that for many of the 30-odd people who have unfinished constructions for which Collier Homes is the head contractor, their homes would be in a state that would make it very expensive and difficult to find a new builder prepared to come in and take on the completion of the project. That is a problem that our building industry has long had difficulties with: when people need to switch from one building firm to another, there is reluctance in the industry to take on the work of others. On the other hand—this is where the subcontracting system could be of great assistance—the new building firm could in fact rely on the same subcontractors that were engaged by Collier Homes. I do not know how viable that would be, because so much of the pricing that is agreed upon between contractors and subcontractors is specific to the particular relationship between the two companies. There is a serious problem there, and I really do feel for these 30-odd homebuilders who are now going to be in a very stressful situation.

I am told that Collier Homes has an office in Osborne Park with 20 staff who are now out of a job. This is a multimillion-dollar collapse across Australia, and former Family First Senator Bob Day has to share some of the responsibility for this. He is perhaps doing the correct thing in admitting his involvement and resigning from federal Parliament, but it is a very serious matter. I note that some subcontractors are owed amounts of $25 000. WAtoday reported the case of subcontractor Ron van Zoelen and his wife, Tracey, who actually went to the former federal senator's office in South Australia just before learning about the closure of Collier Homes to press their claim for $25 000. Of course, they have all sorts of financial commitments, and that is what happens with subcontractors: they so often are left shouldering the burden of the procurement of all sorts of goods that are required for a particular home construction project, and they wear the cost of that stock. It is not just payment for their labour and their expertise; it is also payment for the goods they are required to procure as part of the delivery of their work. That is where so much of their financial burden falls. It really is a devastating thing for all concerned when these sorts of problems arise.

I think this example starts to paint the picture of just how much we need better regulation of our building and construction industry, yet I hear so much talk about having an industry that is less regulated. We cannot do that. If we have an industry that is fragmented with contractors, subcontractors and clients, that is very volatile and is slowing down, we have to protect the interests of the people involved. This is an industry that is driven by small investors—individual people as investors. We have to protect their interests. If we do not do that, we are going to undermine the community's confidence in the industry. That is why we so often hear people say, "Gosh, I'd never build a new home again. That was a horror experience. I'm never going through that again." Already we are hearing those kinds of charges from people in the community—people who have gone through incredible stress and disappointment. They have had to face up to budgets way in excess of what they were originally quoted and it is an amazingly stressful experience.

That is the situation as it is already, but with a slowing market and the government's political philosophy of getting rid of the last vestiges of a regulatory framework, we are going to find that confidence is further undermined. I think people eventually will just say, "I don't want to build a new home." They will perhaps be prepared to enter into some sort of contractual arrangement with a builder who will renovate, but they will be dissuaded from building new homes. To counter that, we have things like first home buyer grants through which we give $10 000 to a first home buyer who is buying a brand-new home, so maybe there are opportunities there, but we have to look at what is fundamentally at stake with this industry, and it is all about people's confidence in the industry. If we do not have the right regulatory framework, we are going to see that confidence undermined.

Over the weekend I saw another very interesting article, totally unrelated to the Collier Homes episode, that appeared in the Saturday edition of the local newspaper. The article in *The Weekend West* discussed a particular building company, this time Benchmark Designer Homes Pty Ltd, and the trauma faced by one particular owner-builder, Mr Nigel Hanwell. It outlined the costs he has faced and the difficulty he has had getting the Building Commission to take action on his behalf. The Building Commission does not seem to have the capacity to get involved at an early stage because it does not have the staff. The political party that is in government not only does not like regulation even when it is needed, but also does not believe in providing adequate resources to the public service so it can use what little there is of a regulatory framework to get the right results. This disastrous combination will undermine people's confidence in the quality of our housing sector. In addition, our housing sector is unable to really be innovative. When it comes to things such as energy efficiency in homes, we see a huge lag between the realisation of what is achievable and what technology currently allows for and its rollout on a wide scale.

People only have to drive through parts of my electorate, where supposedly we have the benefit of the six-star home energy efficiency rating system that came in when Hon Simon O'Brien was Minister for Commerce, to see this inability. The subdivisions were not even in existence when the six-star system came into play, but they have been created, construction contracts have been signed, builders have got the jobs and people have paid their money. If people were to look at the end product, they would see that there is no way these homes are meeting that six-star energy efficiency target. There are masses of black roofs and homes facing the wrong way so the solar orientation is completely wrong. No effort has been made to get it right.

Property developers tell me that it is very easy for them to make sure that 90 per cent of the blocks in a subdivision can be correctly aligned to get optimum solar access. This means homeowners will have the very best of solar access; they can get the warming winter sun into the house and the eaves can be angled to keep out the hot summer sun. It is very easy to do; 90 per cent of the lots can be angled to optimise that very important design consideration. When I drive through some of the new areas in my electorate, I do not see any sign of that at all. Clearly, the regulatory framework that is in place for the construction sector is failing consumers and subcontractors. Subcontractors are being let down; it is not their fault that they are being asked to work on homes that are facing completely the wrong way, where all the windows face in a way that will catch the hot summer sun, causing the poor property owner to put on their air conditioner to have any semblance of a comfortable temperature in their home. It is not the subcontractor's fault at all. We have a lazy process in place that allows people to become involved in situations in which they will pay over the odds for the home and also for the running of that home. Heating and cooling costs will be totally beyond what they should have been had we put in place and respected the correct regulatory framework.

[Member's time extended.]

Mr C.J. TALLENTIRE: This is a widespread problem. Our building industry needs to be supported by good regulatory frameworks in which oral contracts may exist between the subcontractor and the head contractor. We need to make sure that the industry has an underpinning of both a good regulatory framework and government agencies that have the capacity to go out and inspect things and do that job properly.

I note the concerns of my local government area, the City of Gosnells. It has talked to me about its concerns about the proposed Instant Start system. I understand that the Instant Start idea would mean that people would simply lodge a building approval application with their local government and they would be allowed to go ahead and construct. There would be none of the checking we would normally expect. The argument the building industry makes is that the system would free up extra capacity and eliminate the inconsistency in the time taken for building approval that exists between one local government and the next. If there are inconsistencies, that is an issue. I can understand how that could be irritating. It must be a bit annoying for Perth's major project home builders to find that one local government takes double the time of another to process applications. That inconsistency might just be a reflection on the number of officers in the planning department of that local government, which is a choice that the people in the local government have made to not properly resource that area. It might be a reflection of other peculiarities about the complexity of construction in a particular area. The idea that we should have a uniform standard right across the Perth metropolitan area and the state is not realistic at all; it is quite unrealistic. It is especially unrealistic when we add in some of the other design considerations that we now have to have, such as making homes fire safe and ready for the very unfortunate event of fire. It is probably the case that the home should never have been built if it is in a fire-prone area, but the government is allowing homes to be built in such areas, which puts people's lives at risk.

It is expected that the checks on the standards will be done by some sort of Instant Start process. I do not see how that could possibly work. The Instant Start process will not allow us to do the necessary checks. We will find out only after the event, after the footings have been poured and the house pad has been laid. Maybe a building inspector will get out on site and see that there is a problem with the location—that the cadastral boundaries have been misunderstood. That sort of thing happens; this is what I hear about. The standard of the works relating to those footings and concrete pouring may not have been up to scratch, so homeowners get dreadful subsidence. Homeowners may find out that the building works have not been of a satisfactory standard, so a wall starts to dip down once it has been built. Sometimes these problems only become apparent well after the keys have been handed over to the poor buyer. Who then gets responsibility of remediating things? In theory, the Building Commission has a good process for doing this. I have the utmost respect for the Building Commissioner, Peter Gow. He is dedicated to the task of repairing these sorts of problems. However, I do not believe there are enough staff to cover the number of problems we have right across the Perth metropolitan area.

Returning to the example that was reported over the weekend—the situation that Mr Hanwell is facing with his Mt Lawley home—it is clear that he has been the one who has had to do all the work arguing his case with the building firm. I think that is totally unreasonable. It is unreasonable that a technical issue is argued by someone who is simply a purchaser of a service—the construction of a new home. Why should the new homeowner have to argue the case? I note some comments by the Auditor General, Colin Murphy, on this issue. He has noted that despite the growing workload, the time taken to resolve complaints has fallen significantly. However, 40 per cent of complaints are still resolved after the commission's target of 150 days. Imagine that: a person has a problem with their building firm, and they probably have a very hefty mortgage or bridging finance or whatever in place while they are building this new home, but they have to wait 150 days for their complaint to be resolved. It is often the case when these complaints are in play that the person building the house cannot move into the house and other contractors cannot get their part of the job done. Let us say it is a problem with the wiring or the quality of the plasterwork in the home, once a problem like that has been found and the person has to wait

150 days for it to be resolved, what can they do in the meantime? Perhaps they can get on with the landscaping or something, but there are many things that they simply cannot get on with or get done. I think amongst many in the building industry there is a high degree of perhaps wilful ignorance about the various amendments we have made in this place to the Building Act. In the time that I have been here, we have made amendments to the Building Act.

A property of nine units on an 800 square metre block was constructed next door to me. The builder, who seemed like a very nice, organised, capable and knowledgeable fellow, who has built a good product, saw fit to say to me that I had to work out how I was going to render and paint the dividing parapet wall between his property and mine, because he was finished. When he said that to me, I recalled that when we were amending the Building Act in this place I was sure it contained a provision that the builder of the new property is responsible for finishing the wall facing into a neighbouring home. That is reasonable after all, because I had a perfectly adequate boundary fence and it had not really been my choice to remove that fence. I accepted that it was part of the construction works. I had to argue the case and quote the relevant part of the Building Act to the builder in question. Fortunately, I think he might have got some legal advice somewhere, because he then contacted me and asked me how I would like the wall rendered and what colour I would like it painted. One of the benefits of working in this place is that we get to know little details like that. The builder had also failed to advise me about his need to access my property at certain stages. I cannot remember its number, but there is a form that has to be given to people on adjoining properties to advise them and to ensure that there is some sort of paper trail of what should be a relationship between the builder and the neighbouring property owners. This builder was not aware of that either, and had not bothered to do it.

We clearly have problems when it comes to the way in which these contractors work. One of the great excuses that they use is to back away and say that it was the subcontractor who was doing it and that they are the main person—the subcontractors did not know about the problem. Those sorts of arguments should not be allowed to come into play at all. That is something else that I am particularly concerned about in relation to this issue. I was very pleased to read Hon Kate Doust's comments. She talked about this issue and the company Benchmark Designer Homes, and made the point that we clearly have an issue with the level of resourcing at the Building Commission. She is quoted in *The West Australian* as saying —

> "The minister appears to value the building companies over the consumer …
>
> "The bottom line is that the Barnett Government has ensured the Building Commission is under-resourced and not focused on providing assistance to the West Australian consumer.
>
> "There needs to be a full review into the Building Commission focusing on resourcing and function."

I think that is exactly right. Mr Hanwell, the gentleman who has had the particular problem in Mt Lawley, is quoted in the article as saying —

> "It's really not protecting consumers' interests," he says.

The article continues —

> The commission itself is of the view it should favour neither builders nor consumers but give each a fair hearing.

I think we have to do better than that. It is about having the right regulatory framework and ensuring that the relationship between building firms and their subcontractors is properly determined and properly regulated. We need to make sure that subcontractors have confidence that they will be paid without time delays and within time frames that work for their businesses. That is a key issue.

Finally, I have heard about the attitude of some of our major resources companies—some the biggest and wealthiest mining companies in Western Australia and, indeed, the world—towards their subcontractors. It seems that because they are not getting the same price for iron ore that they were getting two years ago, they are sorry, but they are extending the time that they withhold funds from their subcontractors for their services. That is just not good enough either. I believe one of the points of this legislation is to seek to remedy that situation so that people are paid within a reasonable time frame. I trust that that is the case. I am sure that during the course of further discussion on this bill, we will be able to test the claim that the bill intends to make sure that people receive payment in a more timely fashion.

This bill tackles some of the issues facing people in the construction sector, but I fear that it does not go anywhere near providing the regulatory and legislative changes that we really need to make sure that the community has confidence in the construction sector, particularly in the construction of private homes. I do not think any attempt has been made to tackle that issue. In fact, I fear that there is a push completely the other way to remove the regulatory controls that are essential to make sure that people have confidence in our construction sector. I look forward to hearing more about how this bill will be applied and I trust that we can provide subcontractors with confidence in the future.

MR W.J. JOHNSTON (Cannington) [1.47 pm]: I rise to make some remarks on the Construction Contracts Amendment Bill 2016. What is the saying, Madam Acting Speaker (Ms L.L. Baker)? A drowning man will grab anything. I suppose that is what we are doing here. There are serious, serious problems in the construction industry in Western Australia and given that the Construction Contracts Amendment Bill 2016 will not solve those problems, is it better that we support this legislation, because otherwise there will be no improvements? One of the challenges for construction contractors in Western Australia is that the Attorney General has been the responsible minister in this area—the laziest minister in a lazy government. The number of reports on this issue that have been sitting on the minister's desk since the time that he took office in this role is extraordinary, yet here we are, in the dying days of a tired and worn out government, before we get any legislative action.

I sat in the home of a contractor to whom a head contractor had not paid his bill. The contractor is a cabinet-maker. He had a couple of apprentices and some subcontractors who worked with him, and a small factory unit where he made his cabinetry. He had a contract with a large head contractor that was working on a government project. The cabinet-maker was not paid by the head contractor. It is not just the labour content; it is also the materials, because now head contractors, as a way to reduce the amount of capital that they put into a project, get their subcontractors to purchase the materials that will go into the building. Of course, the head contractors pay for the concrete to go into the building, but they expect the subcontractors to finance the cost of the fit-out. This particular guy was on the hook for hundreds of thousands of dollars because he had to pay his suppliers for the material that he was then providing to the builder. Because the builder was not paying him for his invoice, he therefore had to come to an arrangement with his supplier for all the material that went into the cabinetry that he was putting into the building that he was engaged on. When he got into trouble like that, his whole life was on the hook. Interestingly, at the same time he also had trouble with his accountant. That is obviously just the luck of the draw, but it meant that the accountant had not been properly handling the financial affairs of the subbie, who then ended up with a large tax debt at the same time that he had significant outstanding invoices from his supplier. The problem for him was that this would prevent him from doing any other work, because obviously the suppliers would not provide him with ongoing credit if this very large contract had not been paid and they would not let him buy materials for other jobs on credit, so he would have to pay cash for the materials for other jobs. This was terribly confronting for him. Sadly, he is not the only one; I am sure many members of this chamber have had subcontractors come to them to talk about very similar situations. This is a serious problem. We saw it come out very strongly during the Building the Education Revolution during the first term of the Barnett government, when head contractors for government projects were not paying their subcontractors for the work that was being commissioned.

I was recently listening to talkback radio. A number of subbies were ringing in to tell of their experiences. One of the common experiences is that when they had a job from a large contractor, the large contractor would make variations to the project. Let us say that the subcontractor has $200 000 or $300 000 worth of work on the project. The head contractor would come along and say, "Listen, I want you to do an extra $30 000 work on the project." This was not originally included in the contract. When the time comes for the subcontractor to get their last payment, the head contractor would come back and say, "Look, you remember that work you did three months ago? We weren't satisfied with that work, so we're now going to withhold the final payment because we had to get the work rectified", even though the subcontractor continued to work on site doing the originally contracted work plus the additional variation. According to the people in the industry, the head contractor will often say, "I will pay you the base amount that we originally contracted, but I'm not going to pay you for the variations." Suddenly there is this massive power imbalance between the head contractor and the subcontractor and there is no practical way forward for them. They have all their bills to pay and, as I explained with the cabinet-maker, they have to make sure that their trade creditors are being paid regularly otherwise the trade creditors will not let them get anymore materials—then it is not just that job that the subcontractor is not able to do; it is every job they are not able to do. This is a massive problem in this industry. Of course, we are not the only people to identify this problem. I refer to the December 2015 report of the Senate Economic References Committee, headed "I just want to be paid", which looks at many of these situations in the construction industry right across Australia. I quote from the executive summary of the Economic References Committee report. It states—

> The industry's rate of insolvencies is out of proportion to its share of national output.

That is the construction industry. It continues —

> Over the past decade the industry has accounted for between 8 per cent and 10 per cent of annual GDP and roughly the same proportion of total employment. Over the same period, the construction industry has accounted for between one-fifth and one-quarter of all insolvencies in Australia.

This is another problem that subcontractors have. My good friend the member for Gosnells outlined the problems with Colliers International, which went into receivership this week, in which the subcontractors cannot be paid because the head contractor has gone into insolvency. There are many problems for people in this industry that need to be dealt with. The Construction Contracts Amendment Bill 2016 will not solve these

problems. Of course, it is a step forward but it will still not solve the problems. The Senate committee report states —

> The structure of the Australian building and construction industry, as well as the contractual relationships between people working within it has transformed in the past decade or so.

It then explains the move from employment relationships to contract and subcontractor relationships and the greater proportion of that work then being let to even smaller contractors. The report continues —

> One witness who gave evidence to the inquiry likened the culture to a battlefield, where subcontractors get mowed down and fresh bodies are just poured in. Evidence to the inquiry demonstrates that head contractors are often more than willing to abuse their market power to the detriment of those further down the subcontracting chain.

That is a serious problem identified by this report. The report also discussed phoenixing, in which a company is improperly put into administration or receivership or another form of arrangement and the same directors of that company then open another company in exactly the same business, carrying out exactly the same activities. To quote the report again —

> Phoenix company schemes have been a longstanding concern of regulatory agencies, parliamentary committees and a more than usual number of inquiries. However, despite the prevalence of inquiries and recommendations that followed, illegal phoenix activity remains a significant issue not only in the construction industry, but throughout the economy.
>
> …
>
> This culture is reflected in the number of external administrator reports indicating possible breaches of civil and criminal misconduct by company directors in the construction industry. Over three thousand possible cases of civil misconduct and nearly 250 possible criminal offences under the *Corporations Act 2001* were reported in a single year in the construction industry. This is a matter for serious concern. It suggests an industry in which company directors' contempt for the rule of law is becoming all too common.

I have heard a story of a phoenixed company in Perth, in which the director of that company had a history of phoenixing in England before he moved to Australia.

Mr D.J. Kelly interjected.

Mr W.J. JOHNSTON: Obviously. He had been involved in phoenixing in the United Kingdom and when things started catching up with him, he moved to Australia. He then simply engaged in the same activity here until recently, when things caught up with him, and he has now decamped back to England. This is a serious problem. Again I say that the Construction Contracts Amendment Bill 2016, although an acceptable small step, is not the solution to the problems of this sector.

Debate interrupted, pursuant to standing orders.

[Continued on page 7395.]

QUESTIONS WITHOUT NOTICE

ABB AUSTRALIA LTD — MINISTER FOR ENERGY'S LETTER

815. Mr M. McGOWAN to the Minister for Energy:

On behalf of the member for Albany, I acknowledge the students from John Calvin School in Albany, who are in the gallery today.

I refer to the minister's letter of support to ABB Australia Ltd for its sixtieth anniversary and its —

> … important contribution not only to the security of electricity supplies for the State, but also to the overall prosperity of Western Australia.

Was any weighting for the overall prosperity of Western Australia given when assessing the tender that ABB Australia lost, including the loss of payroll tax, land tax, local incomes and local jobs?

Dr M.D. NAHAN replied:

I thank the member for the question, and I will provide a bit of background, because he skips over the issue. ABB Australia has been a major supplier of transformers to Western Power and the electricity industry in Western Australia for some 60 years. ABB is a large global multinational—probably the largest builder of transformers in the world, with over 1 200 employees around Australia and, apart from its Malaga factory, another 100 employees in Western Australia. As with much of the construction industry, ABB Australia experienced very large growth in demand during the mining boom. It expanded and contributed greatly to the development of this state, in both the past and the future.

The contract with Western Power came due, as it does. Western Power met with ABB Australia numerous times, and the company said that, outside Western Power, the demand for its services had declined sharply. Rio Tinto was a big customer, but its contract finished. Most of the expansion in the electricity grid outside Western Power is finished, and sales on the eastern seaboard are finished. It has also built a giant new plant in Vietnam.

Mr M. McGowan: They do a lot of repairs.

Dr M.D. NAHAN: I am getting there. The Leader of the Opposition asked the question, and I am answering it.

Western Power's growth has subsided, but, more importantly, it has told the bidders for the contract that it will not buy as many transformers because it will recycle, re-use or refurbish transformers rather than buy new ones, and technological change means that it does not need as many transformers. Therefore, Western Power's demand is shrinking, which is good. Western Power put the contract out to bid. I met with ABB Australia and was told that if we did not meet its cost for the Malaga plant, it would move the activity to Vietnam. The company bid on the contract, and was 40 per cent above the cost of the other Australian and New Zealand bidders. It was $16 million a year above cost for a $5 million contract. I will do the numbers—that is $80 million.

Mr B.S. Wyatt: Hang on; $16 million —

Dr M.D. NAHAN: Sixteen times five—add it up and multiply it. It is $16 million a year for a five-year contract. ABB Australia's bid was 40 per cent or $16 million a year above the comparable Australian and New Zealand opposition. It meant that, to accept that quote, which the Leader of the Opposition said he would have done, would have imposed an additional $80 million cost on Western Power. Under the laws of the land that govern Western Power, Western Power has to issue contracts in a competitive manner and take the best contract for Western Power and its consumers. Western Power has decided—it is up to Western Power; I do not interfere—that rather than spend another $80 million on ABB Australia, it will sign a contract with another Australian and New Zealand contractor.

Let us go back to what this is. The Leader of the Opposition is criticising Western Power for going out and competitively tendering, and being more efficient, and deciding to effect $80 million in savings. The Leader of the Opposition says that, if in government, he would have directed Western Power—he would have had to do that—to spend another $80 million to save these 56 jobs. That is what he said.

There are some other aspects of this. First, Western Power is not confident at all that even if it signed for the extra $80 million expenditure with the contracted Malaga plant, the jobs would stay there in the long term, because ABB has just built a giant new factory in Vietnam. If we lock in our construction and dependency on ABB facilities—plants and whatnot—and then ABB shuts down the Malaga plant, we would be stuck. This goes to the heart of the difference between us and the people in opposition. They are trying to treat Western Power on the cost front as a cash cow for their narrowly based union constituency.

Mr W.J. Johnston: There are 80 jobs at stake.

Dr M.D. NAHAN: There are 56 jobs.

I met with the company numerous times, and I told it that we are not going to keep the small Malaga plant going at any cost. I suggested that the company sharpen its pencils, get efficient and compete, but it did not do that. It just said, "Here's the cost of operating the plant; you meet these costs or else we're out of it." The company played the politics, and played the people opposite like a trick. ABB Australia basically said that Western Power should impose $80 million of additional costs on its consumers because of that. This distils down to higher electricity prices, which is what the opposition is after.

The SPEAKER: Wind it up, please.

Dr M.D. NAHAN: We will be choosing between employing people at 40 per cent above the cost or hiring people in lithium processing plants that are world competitive. That is the difference.

ABB AUSTRALIA LTD — MINISTER FOR ENERGY'S LETTER

816. Mr M. McGOWAN to the Minister for Energy:

I have a supplementary question. Will the minister table the relevant tenders to back up what he indicated to the house just now; and was he aware when he wrote this letter congratulating ABB Australia on its activities and its prime plant operating that it was not going to successfully receive that contract?

Mr C.J. Barnett: Who gave you the letter?

Mr M. McGOWAN: It is published on their website.

Several members interjected.

The SPEAKER: Only one speaker. Minister for Energy, a quick answer.

Dr M.D. NAHAN replied:

Western Power is a statutory corporation, and it decides the tenders. It keeps the tenders confidential.

Mr M. McGowan: I never believe your facts.

Dr M.D. NAHAN: I do not believe a thing the Leader of the Opposition says. Who would believe the Leader of the Opposition? It is true that ABB Australia did not win that contract, and as a result of that 56 people will lose their jobs. It is true that the company built a plant in Vietnam, and it is true that its bid was $80 million over five years, or 40 per cent, above the cost.

Mr M. McGowan: Release the tenders to prove that.

Dr M.D. NAHAN: Those are the facts of the matter.

Mr M. McGowan: You just make things up. **Dr M.D. NAHAN**: The Leader of the Opposition shoots his mouth off without getting the facts.

ROEBUCK BAY MARINE PARK

817. Mr I.C. BLAYNEY to the Minister for Environment:

Can the minister please update the house on the Liberal–National government's recent announcement of the Roebuck Bay Marine Park and what this means for conservation and tourism in the area?

Mr A.P. JACOB replied:

I thank the member for Geraldton for the question. In the Kimberley just a week or two ago, the Premier had the opportunity, along with the Yawuru traditional owners in Broome, to announce the creation of the Roebuck Bay Marine Park. This is one of five marine parks that the Liberal–National government is creating as part of the Kimberley science and conservation strategy—a $103 million investment in the Kimberley. This is not only the largest conservation program ever in the Kimberley, but I suggest the largest single conservation strategy program the state government has run in any region of this state. The new Roebuck Bay Marine Park will be jointly managed with the traditional owners there, the Yawuru people.

Several members interjected.

The SPEAKER: That is enough!

Mr A.P. JACOB: Through the Kimberley science and conservation strategy, we are creating around 200 direct jobs with traditional owners right across the Kimberley. The park will have not only conservation outcomes, but also Aboriginal employment outcomes and spin-off tourism opportunities, as I talked about yesterday.

Mr D.J. Kelly: So, no sanctuary zones?

The SPEAKER: Member for Bassendean!

Mr A.P. JACOB: I will get to that, member for Bassendean.

This marine park will conserve the biodiversity values of Roebuck Bay and it will also promote visitation and enjoyment of those values. We believe that our marine parks and national parks are for the owners of those parks—both the traditional owners and the people of Western Australia—to experience and enjoy. This government takes the conservation values of those parks very seriously and that is why, prior to the creation of the Roebuck Bay Marine Park, we purchased out the final gillnetting licences within Roebuck Bay.

Mr C.J. Tallentire interjected.

The SPEAKER: That is enough.

Mr A.P. JACOB: We purchased out the final commercial gillnetting licences within Roebuck Bay. This government has removed commercial fishing —

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: I will get to you too, member for Gosnells.

The SPEAKER: Member for Gosnells!

Mr A.P. JACOB: This government has removed commercial fishing within Roebuck Bay Marine Park but we are maintaining —

Mr C.J. Tallentire interjected.

The SPEAKER: Member for Gosnells, I call you to order for the first time. Minister, a quick answer, please.

Mr A.P. JACOB: Thank you, Mr Speaker. We are maintaining the conservation values of that area, as we are also doing in Ramsar wetland, which is an area of international importance for migratory birds. We are also maintaining recreational fishing within Roebuck Bay because it is a key tourism industry in Broome. Do you know what, Mr Speaker? It is also a key cultural institution.

Mr C.J. Tallentire interjected.

The SPEAKER: Member for Gosnells!

Mr A.P. JACOB: Recreational fishing brings together the cultures of traditional owners and other Western Australians. That is one of the reasons why we have kept recreational fishing. Under the Kimberley science and conservation strategy, marine parks in this state will go from 1.5 million hectares to five million hectares under the Liberal–National government.

Mr C.J. Tallentire interjected.

The SPEAKER: Member for Gosnells, I call you to order for the second time. Minister, you have 30 seconds.

Mr A.P. JACOB: Marine parks will go from 1.5 million hectares to five million hectares; that is a 200 per cent increase. On radio this morning, the Leader of the Opposition said that this government had not done much in conservation.

Several members interjected.

Mr A.P. JACOB: An increase from 1.5 million hectares to five million hectares—how is that for a result, Mr Speaker? It is a $103 million investment. The Leader of the Opposition said another doozy; he said that he would "like to expand our marine parks". He said that he would like to do it; we do it. From 2001 to 2008, I saw the Labor Party's lofty aspirations in action. It aspired to create Roebuck Bay Marine Park for eight years but it never came even close. We said that we would do it within three and a half years and you can consider it delivered, Mr Speaker. For eight years, members opposite said that they would do a biodiversity conservation bill. We said that we would do it, and three and a half years later it has been delivered.

Coming back to Roebuck Bay specifically, in the opposition's latest policy announcement, the member for Gosnells announced that if Labor wins the election, it will do a science-based review of marine park management. Let me inform the house of the good news: I have already written that into the management plan for members opposite! A five-year review is mandated within the management plan. Again, we have already written in the lofty aspirations of members opposite. Thank heavens that the Liberal–National government is here to deliver biodiversity conservation outcomes for Western Australia as opposed to the hot air and hollow aspirations of members opposite!

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean, I call you to order for the first time.

ASSET SALES — WESTERN POWER

818. Mr W.J. JOHNSTON to the Treasurer:

I refer to the Treasurer's decision to sell Western Power and his statement in this year's budget, "I am announcing today that the government proposes the sale of Western Power."

(1) What percentage of foreign ownership in Western Power is acceptable to the Treasurer?

(2) Will the Treasurer rule out any ownership of Western Power by overseas state-owned enterprises?

Dr M.D. NAHAN replied:

(1)–(2) As per usual, I have to clarify the member's statement. We have not confirmed that we are going to sell Western Power. I have not done that. We are going along a path to discuss, within government, whether or not we are going to sell it; and, if so, how.

Mr M. McGowan interjected.

The SPEAKER: Leader of the Opposition!

Dr M.D. NAHAN: As I have said repeatedly, when we have made that decision, which will deal with all the various criteria and questions that people could raise—we have examined most of them—we will make a decision and we will let members opposite know at the time of our choosing.

ASSET SALES — WESTERN POWER

819. Mr W.J. JOHNSTON to the Treasurer:

I have a supplementary question.

Several members interjected.

The SPEAKER: That's enough! We want the member for Cannington.

Mr P.B. Watson interjected.

The SPEAKER: Member for Albany!

Mr P.B. Watson interjected.

The SPEAKER: Thank you; that is enough now. There has been a lot of banter.

Mr W.J. JOHNSTON: Thank you very much.

Mr P.B. Watson interjected.

The SPEAKER: Member for Albany, I thought it was finished but, anyway, I call you to order for the first time.

Mr W.J. JOHNSTON: Again, I ask the Treasurer: what percentage of foreign ownership in Western Power is acceptable to him?

Dr M.D. NAHAN replied:

I will answer it again. As to our approach to Western Power, we will make a decision and we will let the people of Western Australia know —

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington!

Dr M.D. NAHAN: Given that members opposite exist in Western Australia, we will also inform them.

CARERS — GOVERNMENT SUPPORT

820. Mr J. NORBERGER to the Minister for Community Services:

This week is Carers Week, a time to acknowledge the selfless work that carers do in our communities. Can the minister please tell the house what the Liberal–National government is doing to assist carers?

Mr P.T. MILES replied:

Just over the road this morning, I had the pleasure of launching Carers Week. It was a very moving and exceptional morning. The member for Fremantle was also in attendance, so it was great to see the support of the opposition there. Carers are a hugely vital and important part of our community. We can support them by using their advocacy through their group Carers Australia WA. The government has been very good with Carers Australia WA. We support it to the tune of $1 million to be able to promote and access support services for carers. Some of that support for carers includes further education, or further in-kind support for them to be able to do their jobs as carers. It is also able to recognise young carers who are still in high school or primary school and who need to be looked after to make sure that they are getting the proper level of education. That is why we will continue to remain in the forefront of supporting our carers through Carers Week. One thing that came out of this morning was a video, which will be played on the big screens around town in some of the more Art Deco theatres. It was about a young man who, over the course of 30 years, was filmed throughout his entire life in 10-year segments. It shows the stress of being carers on the mother and the father during those years. It was a very touching video presentation this morning and I commend to the house that as many people as possible go to watch it. That is why I want to support the carers' motif for this week: "Australia counts on carers" and "Carers count!" I know that this house supports carers 100 per cent, and this government will continue to support carers in the coming years.

ASSET SALES — WESTERN POWER

821. Mr W.J. JOHNSTON to the Treasurer:

I refer to the Treasurer's promise to privatise Western Power.

(1) Has the Treasurer discussed his privatisation agenda with all his Parliamentary Liberal Party colleagues?

(2) Do any of these members oppose his plan to privatise Western Power?

(3) If yes to (2), which of his colleagues supports WA Labor's clear position against the privatisation of Western Power?

Dr M.D. NAHAN replied:

(1)–(3) Unfortunately, I cannot take that question seriously because I am not in kindergarten anymore!

Several members interjected.

Dr M.D. NAHAN: I can guarantee the member that all my colleagues are strongly against the Labor Party's plan to hold back the economy of Western Australia.

Several members interjected.

Dr M.D. NAHAN: My colleagues are firmly committed to continuing to be a "doing" government rather than a bunch of "don'ters". All we get from members opposite is, "Don't, don't, don't." We get "don't progress", "don't expand", "don't be competitive", "don't invest" and "don't prepare for the future". They are a bunch of chooks. My colleagues are committed to the future of Western Australia and to the growth of it, and to exploring policies that enable us to do that. To a man and woman, they think the opposition is a bunch of losers.

ASSET SALES — WESTERN POWER

822. Mr W.J. JOHNSTON to the Treasurer:

I have a supplementary question. Why did the member for Wanneroo tell *The West Australian* in January that he is opposed to the sale of Western Power?

Dr M.D. NAHAN replied:

Ask him. Why did the member for Victoria Park say in respect of selling Western Power, "As long as you have good regulation, I can't see why not"?

TRAFFIC CONGESTION — REDUCTION MEASURES

823. Mr C.D. HATTON to the Minister for Transport:

I know there has been a lot of good improvement in traffic management of our roads. Can the minister please update the house on what the Liberal–National government is doing to reduce congestion on our roads?

Mr W.R. MARMION replied:

I would be delighted to update the house on what the Liberal–National government is doing to reduce congestion on the road network, with practical examples and evidence to prove it.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Mr W.R. MARMION: The future will be in smart freeways. There will be lane use management, variable speeds for lanes, and coordinated ramp signals when people enter the freeway. That will be the future. But the public want to know what we have done now. What have we delivered? More than 300 low-cost, high-impact initiatives have been delivered through the program and they have made significant improvements to the network, particularly on the Kwinana and Mitchell Freeways. An additional traffic lane on the Mitchell Freeway between Charles Street and Market Street has improved traffic speed between Vincent and Market Streets by 15 kilometres an hour, or 65 per cent, during the afternoon peak period. Four dedicated exit lanes have been created at South Street southbound and Leach Highway northbound on the Kwinana Freeway, and at Hay Street northbound and Karrinyup Road northbound on the Mitchell Freeway. In the case of the Karrinyup Road exit lane, there has been a 15 per cent increase in the freeway speed between Wellington Street and Karrinyup Road in the afternoon peak. Merge lanes have been installed at 56 locations across the freeway network—that is, every freeway entry lane has been addressed by Main Roads WA—and that has increased average traffic speeds by about nine per cent between Anketell Road and Russell Road in the morning peak.

In addition, a review of 201 sets of traffic signals on 20 major routes in Western Australia, covering a total of 145 kilometres, has led to some significant savings in travelling time. I will give just four examples. There has been a 28 per cent reduction in average journey times on Stock Road between Marmion Street and Russell Road in the afternoon peak; a 22 per cent reduction on Great Eastern Highway between Lloyd Street and Coolgardie Avenue; a 31 per cent reduction in travel time on Orrong Road, which is a fairly important and busy road, between Francisco Street and Hale Road; and a 12 per cent improvement on Canning Highway between North Lake Road and the East Perth Causeway. In the next 12 months, we are going to install further merge lanes at 31 locations on other highways, including Reid Highway, Roe Highway, Tonkin Highway and Leach Highway. We will be doing intersection upgrades on Marmion Avenue at Hepburn and Whitfords Avenues and signal optimisation at 400 other intersections right across the metropolitan area.

Members do not have to take my word for it or Main Roads' quantitative data; Infrastructure Partnerships Australia has used big data and has analysed every trip taken by an Uber taxi over the last three or four quarters—all 5 000 trips by Uber taxis in Perth, Sydney, Melbourne and Brisbane—and it has come up with a model that delivers a travel time index or a congestion indicator in the major cities of Australia. The only city in Australia that has had an improvement in congestion since the third quarter of 2015 is Perth. These are travel times by car, not just point of stop. In the last year and a half, we have improved congestion in Western Australia. The argument often is that the population has diminished. Our population in the metropolitan area has gone up by an average of 30 000 people each year. This indicator shows that we have reduced congestion in the metropolitan area in Western Australia—it is hard to refute that information—while our population has gone up at the same time.

AMBULANCE RAMPING — EMERGENCY DEPARTMENTS

824. Mr R.H. COOK to the Minister for Health:

I refer to the record ambulance ramping under the minister's management, including three successive months of ramping for in excess of 2 000 hours. Why has the Australasian College for Emergency Medicine's recent snapshot report on Australian emergency departments found that Western Australian EDs perform the worst of any state and why did this report find that 47 per cent of WA patients spent more than four hours in EDs and that 12 patients spent more than 24 hours in EDs waiting for a bed?

Mr J.H.D. DAY replied:

I am aware of a report or statement that was put out by the college that the member referred to. I think it was about two months ago —

Mr R.H. Cook: No.

Mr J.H.D. DAY: When was it then?

Mr R.H. Cook: It was September.

Mr J.H.D. DAY: It was at least a month ago.

The SPEAKER: Thank you; let us move on.

Mr J.H.D. DAY: My recollection also is that there was not a lot of support for the comments that were made in that particular report, including from the Australian Medical Association.

Mr R.H. Cook interjected.

The SPEAKER: That is enough!

Mr J.H.D. DAY: As I said, there was not a lot of support for what was put out. It was not a report that was a comprehensive reflection of the overall situation. As I said, there was not a lot of support for it.

Last week we discussed the issues in relation to the demands on our emergency departments, including the difficulty in moving patients from emergency departments to wards because of the large number of aged care–type patients who are occupying beds, the need for actions to be taken by hospitals when they can do more to discharge patients or move them to other appropriate areas of treatment, and also the demands that exist in our emergency departments. In the last week in fact, there has been, I think, a 58 per cent reduction in the amount of ramping at emergency departments. There were pressures there, particularly over the winter period. That has been explained.

Mr R.H. Cook interjected.

The SPEAKER: That is enough!

Mr J.H.D. DAY: There was pressure from a large number of flu cases and the system is very much moving in the right direction. In relation to the report that the member mentioned, as I said, my recollection is that it was not widely supported. It came out some time ago and does not represent a comprehensive picture of the reality.

AMBULANCE RAMPING — EMERGENCY DEPARTMENTS

825. Mr R.H. COOK to the Minister for Health:

I have a supplementary question. The minister's ramping ban has failed dismally. What is his new plan to resolve the crisis in Perth EDs?

Mr J.H.D. DAY replied:

I do know that more treatment is being provided in our public hospitals in Western Australia than ever before and more treatment is being provided in emergency departments than has ever been the case. There is no crisis in our emergency departments.

Mr R.H. Cook interjected.

The SPEAKER: Member for Kwinana, I call you to order for the first time.

Mr J.H.D. DAY: The one thing that the Labor Party is very good at —

Mr R.H. Cook interjected.

The SPEAKER: I call you to order for the second time.

Mr J.H.D. DAY: One thing the Labor Party is very good at is scaremongering. We are seeing it going on at the moment; we saw it in the federal election campaign and we see it from the member for Kwinana at the moment. There is a lot of demand on our emergency departments—there is no question about that—and there is pressure on the clinical staff who work in them.

Mr R.H. Cook interjected.

The SPEAKER: That is enough.

Mr J.H.D. DAY: They are very dedicated and do an outstanding job, with world-class standards of quality of care; there is no question about that. They are amazingly dedicated, committed and competent, and I pay tribute to them. They are working very hard, but there is no crisis in our emergency departments. There is major pressure—there is no question about that—because of the growing population, the ageing population and the fact that we have made our public hospital system better than has ever been the case. The better we make it, just like our public schools, the more people want to use it, and that is what is happening.

SHARK FISHERY — SEA LIONS

826. Dr G.G. JACOBS to the Minister for Fisheries:

Can the minister update the house on the likely impact of the proposed commonwealth sea lion closure zones and the effect they will have on the state's fishing industry?

Mr J.M. FRANCIS replied:

I thank the member for Eyre for his question. This is an important issue for fishermen in his electorate because obviously the temperate shark fishery goes all the way around to the South Australian border. At a time when so many of the world's fisheries are classed as either over-exploited or depleted, it is great that we can assure the people of Western Australia that 95 per cent of our fisheries in WA are assessed as sustainable, and the remaining five per cent, predominantly beyond the impact of mankind through to natural events, are being managed obviously because of the downturn in the fish stocks. Overwhelmingly, there is no other place in Australia or indeed the world that takes ecologically sustainable fishing practice as seriously as we do here in Western Australia, and I think that is something we should all be proud of. However, some of our fisheries are still losing productive fishing grounds for, shall we say, uncertain ecological gains, and obviously the temperate shark fishery is one that is currently under threat. Regarding the status of the Australian sea lion, it is an important species; no-one doubts that. It is a protected species, with population pressures. It is an important issue. There are somewhere around 10 000 to 14 000 sea lions between Western Australia and South Australia, with obviously different numbers at different times.

Mr D.J. Kelly: What are their names?

Mr J.M. FRANCIS: This is a serious issue and the member makes jokes about their names—really?

The problem is that if the commonwealth had its way and imposed 25-kilometre restrictions around the breeding habitats of the sea lions, it would effectively shut down 25 000 square kilometres—one-third of that fishery. That fishery is vitally important. None of that produce gets exported. It is all for the domestic market, so when people go to buy fish and chips in their electorates, they are predominantly buying fish that has come out of that fishery. We can only imagine the cost pressure on domestic fish produce and seafood if one-third of that fishery were to be shut down.

To put Australian sea lions into another context, from 2007–08 to 2014–15—over those seven years—the total accidental kill of sea lions by fishermen in those fisheries was six. If we also take into consideration the likely impact of sharks taking sea lions through the removal of one-third of the shark fishery—because sharks eat sea lions—it would have a negative impact on the population of sea lions. That is why I have taken up the fight with the commonwealth. That is why I have written to the federal minister to point out the significant environmental and economic issues with the proposal. Interestingly also, the commonwealth does not have a plan to compensate fishermen if it were to take away the livelihood of fishermen through the combined effect of environmental policies. If we did that here in Western Australia, at least we would buy back whatever licence or permit was issued. This is an important issue for not just fishermen in the temperate shark fishery, but also consumers of fish product in Western Australia, which is why the state government is not prepared to stand by and allow the commonwealth to impose these restrictions on our fishery. That is why I have asked the commonwealth to reconsider its approach on this very important matter.

PERTH FREIGHT LINK — STAGE 2

827. Ms S.F. McGURK to the Minister for Transport:

I refer to the Premier's comments last week that stage 2 of the Perth Freight Link would not be announced before the next election and to the minister's comments about stage 2 last Wednesday in which he said, "My aim would be to take that to cabinet within the next month."

(1) Does the minister still stand by his commitment to bring stage 2 of the Perth Freight Link to cabinet in the next four weeks and well before the election?

(2) When will the minister release the contract?

Mr W.R. MARMION replied:

(1)–(2) I thank the member for Fremantle for the question. I did say I had an aim. That aim would be predicated on when I have the information from my department to deliver.

PERTH FREIGHT LINK — STAGE 2

828. Ms S.F. McGURK to the Minister for Transport:

I have a supplementary question. I am a bit flabbergasted by that answer and the transport minister's trite attitude. It is just such an important issue.

Several members interjected.

The SPEAKER: That is enough!

Ms S.F. McGURK: The minister has had more than a week —

Several members interjected.

The SPEAKER: Members! Member for Fremantle—supplementary.

Ms S.F. McGURK: The minister has had more than a week to consider this. When will he release the contract?

Mr W.R. MARMION replied:

There is no contract. The member is talking about stage 2; what is the question? The member has mixed up all the different procedures.

Mr M. McGowan interjected.

Mr W.R. MARMION: The Leader of the Opposition is not answering the question.

Ms S.F. McGurk: You signed a contract at stage 1 last week.

Mr W.R. MARMION: As I said, Mr Speaker —

Several members interjected.

The SPEAKER: That is enough!

Mr W.R. MARMION: I interpreted —

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean, I call you to order for the second time.

Mr W.R. MARMION: I interpreted the question to be about Roe 9, not Roe 8, which is the contract.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, I call you to order for the first time. I am hearing a lot of chatter to my right again.

Mr W.R. MARMION: Nothing has gone to cabinet on Roe 9. Something has gone to cabinet on Roe 8 and the contract is underway. My aim is to get something to cabinet as soon as possible, but as I said in answering the member's first question, it will be predicated on when I get the information and advice from my department. When I have the information and advice, I can take it to cabinet. That is predicated on when it is given to me.

Ms M.M. Quirk interjected.

The SPEAKER: That is enough.

AGRIFOOD BUSINESSES

829. Ms L. METTAM to the Minister for Regional Development:

Can the minister please tell the house —

Mr M. McGowan interjected.

The SPEAKER: Leader of the Opposition, I call you to order for the first time.

Several members interjected.

The SPEAKER: Thank you!

Ms S.F. McGurk interjected.

The SPEAKER: Member for Fremantle, I call you to order for the first time.

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean, I call you to order for the third time.

Mr D.J. Kelly interjected.

Suspension of Member

The SPEAKER: Member for Bassendean, leave the chamber.

[The member for Bassendean left the chamber.]

Questions without Notice Resumed

Several members interjected.

The SPEAKER: That is enough. I thought we were going to have a reasonable day today.

Mr V.A. Catania interjected.

The SPEAKER: Member for North West Central, I call you to order for the first time.

Ms L. METTAM: My question is to the Minister for Regional Development. Can the minister please tell the house how the Liberal–National government is supporting local agrifood businesses to take advantage of new market —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the first time.

Ms L. METTAM: Can the minister please tell the house how the Liberal–National government is supporting local agrifood businesses to take advantage of new market opportunities?

Mr D.T. REDMAN replied:

This side of the house supports the agriculture sector. We know what the history is like on the other side.

Several members interjected.

The SPEAKER: Member for Collie–Preston!

Mr D.T. REDMAN: When we came into government, we put in place and secured a $300 million Seizing the Opportunity Agriculture initiative. The best the opposition could come up with going into that election was $40 million, let alone the policy racking it had in the agriculture space compared with what we have been able to roll out over the last four years.

Mr M. McGowan interjected.

The SPEAKER: Leader of the Opposition!

Mr D.T. REDMAN: That is something we are extremely proud of.

Several members interjected.

The SPEAKER: Member for Cannington, I call you to order for the first time and member for Collie–Preston for the first time.

Mr D.T. REDMAN: We took that initiative to the last election, and we have been able to roll out a range of projects that fit under the Seizing the Opportunity Agriculture initiative. Recently, with the support of the Minister for Agriculture and Food, we announced the Western Australian Premium Food Centre in Manjimup. I am very pleased that the member for Vasse has asked this question, because her support for Busselton Airport has allowed the potential for planes to come in from overseas and be a very secure —

Mr M.P. Murray interjected.

The SPEAKER: Member for Collie–Preston, I have been quite lenient with you. I call you to order for the second time. Let us have a quick answer. We have now lost impetus.

Mr D.T. REDMAN: The upgrade of the airport, once it comes to fruition, will allow planes to come in from overseas and will provide for a very efficient supply chain of product directly out of the south west into overseas markets. We are obviously very pleased about that. The Premium Food Centre offers high-value, often low-input, premium products such as organics and perhaps truffles marketing opportunities that are in some cases very difficult for smaller producers to achieve. Obviously a big part of the agricultural sector in Western Australia is focused on the broader commodity markets and opportunities, but a Premium Food Centre that focuses on all of Western Australia, not just the south west, provides an opportunity for smaller, high-value premium producers to make use of advice and collaborations to come together and build scale to access those markets. We are very proud of the quality of products coming out of Western Australia at both global and small producer levels. They are producing high-quality, premium products. There is a lot of innovation happening, particularly in Manjimup. Obviously I am pleased to have the Premium Food Centre in my own electorate because it is indicative of a number of regions in Western Australia that have such an approach to their products.

We have been able to support that with $3 million of royalties for regions money, plus about $900 000 from the Department of Agriculture and Food. There is a focus on securing markets into premium sectors; assisting businesses statewide to upscale and coordinate production and promotion of high-value, low-input products; and facilitating collaboration and partnerships. This is yet another example of what this government is doing to support the agricultural sector in Western Australia—unlike the opposition.

EURONAVAL 2016 — INTERNATIONAL MARITIME TRADE SHOW — WESTERN AUSTRALIAN PRESENCE

830. Mr P. PAPALIA to the Premier:

I refer to the South Australian–led contingent of 16 South Australian defence companies exhibiting at the Defence SA stand at the international maritime trade show Euronaval 2016 in Paris this week.

(1) Does Western Australia have a stand at this event?

(2) Has Western Australia had a stand at this event at any time in the past eight years?

(3) Will anyone from the Western Australian government be at this event to lobby DCNS Group, the company chosen to build the new submarines, or the various European competitors vying to design the multibillion-dollar offshore patrol vessel and future frigate projects?

Mr C.J. BARNETT replied:

(1)–(3) Coincidentally, there was a meeting in my office yesterday of all the major defence contracting companies in Western Australia —

Several members interjected.

The SPEAKER: That is enough!

Mr C.J. BARNETT: These were the very companies that will be sharing in the offshore patrol vessel contracts and presumably in the submarine and frigate contracts. The member mentioned DCNS, the French group that won the contract or is the preferred bidder for the submarines. At its invitation, Western Australia will be visiting its site and discussing the project with it in France.

EURONAVAL 2016 — INTERNATIONAL MARITIME TRADE SHOW — WESTERN AUSTRALIAN PRESENCE

831. Mr P. PAPALIA to the Premier:

I have a supplementary question.

Several members interjected.

The SPEAKER: Right, thank you!

Mr P. PAPALIA: I ask —

(1) Does Western Australia have a stand at this event?

(2) Has Western Australia had a stand —

Several members interjected.

The SPEAKER: That is enough, thank you! Treasurer, I call you to order for the first time. I want to hear the member for Warnbro.

Mr P. PAPALIA: I ask again —

(1) Does Western Australia have a stand at this event?

(2) Has Western Australia had a stand at this event at any time in the past eight years?

(3) Does our absence from this event mean that South Australian defence companies are more likely to form part of the global supply chain for these contracts than our own Western Australian companies?

Mr C.J. BARNETT replied:

(1)–(3) It would be a bit like sideshow alley if we had a little stand in the South Australian defence contract—or would you go and visit with the French builder of submarines and the German contractors at their sites —

Mr W.J. Johnston interjected.

The SPEAKER: That is enough, member for Cannington.

Mr C.J. BARNETT: The policy of Western Australia is to not —

Several members interjected.

Mr C.J. BARNETT: There is no point, Mr Speaker. Are you interested or not?

Several members interjected.

The SPEAKER: Member for Cannington, I call you for the second time. Member for Warnbro, I call you for the second time. Let us have a quick answer through the Chair.

Mr C.J. BARNETT: I have not had a chance to answer yet.

Point of Order

Mrs M.H. ROBERTS: The member for Warnbro has asked a couple of simple questions repeatedly, such as "Do we have a stand?" and "Have we had a stand?" et cetera. We are still waiting for the answer to those questions, so you can understand why people might be frustrated when the Premier is not answering the questions.

The SPEAKER: Right—it will be a 30-second answer.

Questions without Notice Resumed

Mr C.J. BARNETT: My understanding is that we do not have a stand—nor do we have a hotdog stand or anything else at this fair in South Australia. The Western Australian government is dealing directly with the major contractors in Europe.

Several members interjected.

Mr C.J. BARNETT: Do not look up there; they are not listening to you, either.

Yesterday we had all the major contractors in my office with the delegation that will be going to Europe to speak to the French and German prime contractors.

GENETICALLY MODIFIED CROPS FREE AREAS REPEAL BILL 2015

Consideration in Detail

Clause 1: Short title —

Mr C.J. TALLENTIRE: I see the title is Genetically Modified Crops Free Areas Repeal Bill 2015 and I have to wonder why the government is not being a bit more honest with the title and calling it the "Genetically Modified Promotions Bill". I wonder why that is not the title of this legislation because the government is not just repealing the existing legislation. The existing legislation serves as a check and a means of controlling genetically modified crops and gives us a chance to review whether or not a crop should be planted in Western Australia, and the government is here to do the bidding of the GM companies promoting genetically modified crops in that it is allowing them free access to Western Australia as long as they meet the requirements of various federal government agencies. I think the government needs to justify the short title of the bill because it is quite misleading. The reality is that this legislation is all about promoting GMs; it is not about allowing their eventual use subject to the constraints and checks and balances that were provided under the Genetically Modified Crops Free Areas Act 2003, which had a very clever mechanism. It meant that eventually, as we saw with canola, the approval could be put in place. However, it gave us in Western Australia the opportunity to check things and to be able to see if a potential crop was suitable for our marketing endeavours. I have already heard it mentioned a couple of times this week that Western Australia has a clean, green image for agriculture. Why would we want to put that at risk when in other global markets some of these crops are not seen as being clean and green? Why would we want to leave our marketing decision-making at the behest of federal government agencies? If this legislation were to be described really accurately, it would be called the "genetically modified crops promotion bill", because it is not repealing the sensible piece of legislation Hon Kim Chance brought in in 2003. I would like to hear the minister comment on why the legislation has been so named, because the bill will not only repeal one piece of legislation; it will also promote a genetically modified organism technology that is used in some areas and that the government is giving open slather to. The government should be honest and clear about that when it comes to the name of the bill before us. To say that it is simply a repeal bill does not tell the whole story. It does not allow people to understand what is at stake here. The government is not telling people that what is in place at the moment is a means by which sensible market decisions are made. It will not be our decision whether we allow GM wheat in the future; it will be the decision of the Office of the Gene Technology Regulator. The government has to be honest about that. If the government is prepared to relinquish responsibility on the important decision of what crops we grow in Western Australia, it should be honest with the Western Australian public. It should also answer this question at the same time: why would it not want Western Australians to be in a position to decide what GM crops we grow in Western Australia?

Mr J.M. FRANCIS: I am advised that there is a longstanding convention on naming bills that repeal acts; they are called after the name of the act that they will repeal, followed by the words "repeal bill" and the year it is introduced.

I have been here for eight years and I have seen a lot of bills go through this house. This is one of the short bills. It is a very small bill; there is not too much to it. Effectively, all it will do is repeal the Genetically Modified Crops Free Areas Act, which is why it is called the Genetically Modified Crops Free Areas Repeal Bill 2015. I do not know how much simpler I can explain it.

Mr P. PAPALIA: In my second reading contribution I flagged that I would ask some questions in the consideration in detail stage. The questions I have relate to some of the claims the minister made in his second reading speech when he introduced the bill. Noting that the bill, as the minister said, is very small and does not have many clauses, I hope that we might be able to pursue that information under the guise of this first opportunity. The first question I have is about the claim in the second reading speech that states —

> On average, adoption of GM technology globally has reduced chemical pesticide use by 37 per cent, increased crop yields by 22 per cent, and increased farmer profits by 68 per cent.

Would the minister provide the chamber with information on the references on which those claims are made? What countries were referred to specifically for gains in crop yields and whether in fact there is any evidence, as opposed to anecdotal evidence—I am talking about real evidence independent of the producers or the seed suppliers—for the claim of 22 per cent increase in yield in Australia, and in Western Australia specifically, because I am interested in our own set of circumstances? Does the increase on average of 68 per cent in farmer profits refer to Western Australia or is that another claim based on somewhere like India?

Mr J.M. FRANCIS: The member is correct. I will deal with it in this way.

The SPEAKER: I just want to say that you have to keep the question germane to what we are dealing with here.

Mr P. PAPALIA: As I indicated at the outset, the second reading debate was a difficult environment in which to elicit that information. As I said in my initial statement, I flagged to the minister during the second reading stage that I would be keen to seek information on this during the consideration in detail stage and because the bill is so small, it was difficult to see where else I could have done that.

The SPEAKER: The minister will take that.

Mr J.M. FRANCIS: I will take it. Although we are on the title of the bill clause, I will provide some information to the member. If I get advice to deal with it later, we can deal with it later.

I will provide the advice I have on the data the member is talking about. I am not the Minister for Agriculture and Food but the minister responsible for the carriage of the bill, which has already passed the Legislative Council, so it is not my second reading speech. The member is talking about the Minister for Agriculture and Food's second reading speech.

Mr P. Papalia: Was it, or is this one yours?

Mr J.M. FRANCIS: No, because the bill has already passed the Council. That is when it was done. I think the parliamentary secretary to the Minister for Agriculture and Food read the second reading speech, but I get the thrust of what the member is asking, so I am going to interpret his question on the data on worldwide planting of GM crops. The annotation is that it was adapted and summarised from the web page of the International Service for the Acquisition of Agri-biotech Applications, a not-for-profit organisation that is dedicated to alleviating poverty and environmental degradation through crop biotechnology, by Kevin Chennell, executive director biosecurity and regulation with the Western Australian Department of Agriculture and Food on 22 March 2016.

Further to that, in 2014 global biotech crop plantings continued to grow for the nineteenth consecutive year of commercialisation, with 18 million farmers in 28 countries planting more than 181 million hectares, which was up from 175 million hectares in 27 countries in 2013. I think the answer to the second part of the member's question is, it is worldwide, if that is what he was looking for.

Mr P. PAPALIA: Can the minister tell us a little more about the International Service for the Acquisition of Agri-biotech Applications? Who exactly are they? Who funds it? Where does it garner its information from?

Mr J.M. FRANCIS: I would have to find out that information for the member. I cannot possibly answer that question.

The SPEAKER: This clause is to do with the title of the bill.

Mr M.P. MURRAY: Certainly, Mr Speaker. Before the name of the Genetically Crops Free Areas Repeal Act 2015 was settled upon, what if any lobby groups on both sides of the debate were met or engaged with? I include those people who are pro-GM and anti-GM. How did the government come to the name when at this moment in Western Australia only 30 per cent of farmers use GM crops?

Mr J.M. FRANCIS: There was no consultation on the name. As I said before, the name of a bill is based on the longstanding process of naming repeal bills in the Western Australian Parliament. It is pretty clear how the name Genetically Modified Crops Free Areas Repeal Bill 2015 came about.

As for consultation, the Department of Agriculture and Food consulted with the following key industry representatives on their views: the Grain Industry Association of Western Australia, which is the peak body that represents the interests of those in the supply chain; Co-operative Bulk Handling Ltd, which is Western Australia's grower-owned and controlled cooperative; and the Ord River District Co-operative, as an independent agricultural operator based in the Ord River.

Additionally, outside the formal consultation process, there have been meetings and correspondence with anti–genetically modified crops groups and concerned members of the public about the potential repeal of this legislation. The concerns raised have been mostly around the safety of GM crops and the potential for contamination of non-GM crops. Safety and health considerations are covered by the commonwealth Gene Technology Act 2000, not the Genetically Modified Crops Free Areas Repeal Bill 2015, and segregation has been effectively managed by the industry since 2010.

Mr M.P. MURRAY: As the minister was able to name the pro-GM groups that he met with, could he now name the anti-GM groups that he met with?

Mr J.M. FRANCIS: No, I cannot, because I am not the Minister for Agriculture and Food. But, as a member of Parliament, I have had a lot of email correspondence on this issue over the years, as the member and all other members in the chamber would have done, from people both pro and against this issue. People are entitled to their opinions. I realise there is not consensus on this issue, but as a member of Parliament, and as all members do, I listen to the views of people who raise issues with me.

Mr M.P. MURRAY: I am concerned that the minister is unable to name any of the anti-GM groups he met with, yet he is able to table a list of the pro-GM groups he met with. To me, that shows a bias before this bill came before the chamber.

Mr P. PAPALIA: I return to the subject that I raised about the reference the minister gave me and the name of the individual within the Department of Agriculture and Food who drafted this speech. What did that individual—I cannot recall his name —

Mr J.M. Francis: It's Mr Kevin Chennell, the executive director, biosecurity regulation.

Mr P. PAPALIA: Did Mr Chennell declare any knowledge of the organisations that fund International Service for the Acquisition of Agri-Biotech Applications, which he referred to as the source of the information in this speech?

The ACTING SPEAKER (Mr N.W. Morton): Minister, I am sorry to interrupt you. I have only just jumped in the Chair —

Mr P. Papalia interjected.

The ACTING SPEAKER: With great respect, I am speaking. This debate is on clause 1, which is the title of the bill. I cannot see a reference to the title of the bill in this line of inquiry. Obviously, if the minister is willing to take the question, we will take it.

Mr J.M. FRANCIS: It is a very short answer. I am happy to accept questions. I am happy if Mr Acting Speaker wants to rule otherwise and move on. I will take the same questions in debate on another clause. The answer is: my understanding is that he did not declare it.

Mr P. PAPALIA: I asked the question because it is such a short bill and we have to deal with the issue sometime. In my second reading contribution I flagged that I have questions about the minister's—not this minister, but the Minister for Agriculture and Food—second reading speech, which made some quite broad and unreferenced claims. I want to seek out the reference material. In about two minutes I googled and located the ISAAA website, which, as the minister indicated, is principally sponsored by philanthropic foundations and co-sponsored by a donor support group consisting of public and private institutions. One of the private institutions listed as a donor is Monsanto. Does the minister not think that it would have been appropriate for the individual in the Department of Agriculture and Food who proposed the drafting of this bill and who obviously drafted the speech for the minister to notify the minister that a clear interest in having this bill repealed is accorded to Monsanto and that in the event that the legislation is repealed, it might be something to declare? If the minister is going to quote an organisation that is funded by Monsanto, should he not declare that that is where his data came from?

Mr J.M. FRANCIS: I have a pretty simple answer: no, I do not think it was necessary. I have not looked at who else funds that organisation. Probably a lot people and organisations have an interest in the technology of GM crops.

Mr P. Papalia: With vested interests.

Mr J.M. FRANCIS: Vested or not, a lot of people are driven to improve technology to see millions of people lifted out of hunger. If it means we can grow crops that are more environmentally accommodating to a drying climate or salinity and that somewhere else in the world they can grow more crops, whatever they might be, the government thinks that is a good thing. In fact, probably few people who donated to that particular organisation were not somehow involved in GM technology.

Mr P. PAPALIA: I will conclude my investigation of that particular claim. I will just confirm, minister, that none of those statistics relate at all to Western Australia, and this speech refers to no benefit accrued to Western Australian farmers. No evidence has been presented of increased returns for farmers for yield increase or increased profits. I understand that the purported benefit from a reduction in the use of chemical pesticides in Western Australia is weed management for future years as a consequence of farmers being able to spray more glyphosate in the year that they are cropping with GM canola. That is the only accrued benefit to a farmer using GM canola in Western Australia at the moment, unless some other benefit that has not been notified or documented is to be had from GM canola, which is the only genetically modified crop in commercial use in Western Australia.

Mr J.M. FRANCIS: Information is available on the take-up in Western Australia and Australia. As I outlined last week, different states have different rules. It is obviously no big secret that Queensland is pretty much unfettered, New South Wales and Victoria have some restrictions, and in South Australia a trial that has taken place is being assessed. Tasmania is the only state that has no GM crops. We have to keep in mind that if we want to look at accurate data to assess the take-up of a particular crop technology in Western Australia, whatever it might be, we need to have a fairly decent amount of time to assess it. We are talking about five or six years since 2010 and a limited amount of data is available, but, clearly, if the take-up rate for canola farmers is now 30 per cent, there must be a benefit.

Mr P. Papalia: That's not science.

Mr J.M. FRANCIS: Let me put it this way —

Mr P. Papalia interjected.

The ACTING SPEAKER: Member for Warnbro!

Mr J.M. FRANCIS: I and other government members have faith in a farmer's ability to make the best decision knowing the ground that they work. If farmers choose to plant that crop, that is their commercial decision. I am not going to pretend, as the Labor Party clearly wants to pretend, that I know better than the farmer who owns

the land. It is that simple. If the take-up is 30 per cent, clearly, there must be a benefit for farmers. If they got it wrong on GM crops, that is their commercial decision. If they got it right, good luck to them. I am not going to pretend that I know better than the farmer.

Mr P. PAPALIA: I have a final point to make, minister. The crux of the issue, to me and other members on this side of the chamber, is not so much whether farmers are competent and capable of making that decision or whether it is going to impact them financially, it is the impact on everybody else—the 70 per cent of farmers who have not taken up GM canola. People like Steve Marsh who live next door to a farmer who chooses to use GM canola will have their livelihoods impacted because the government is removing this legislation. That is where the concern comes from. If the government's only reference material is sponsored by Monsanto, it raises concerns about the credibility of its claims and about the threat to those farmers.

The minister is overlooking this. The extent of the oversight Liberal government ministers have given to this whole process is extraordinarily flimsy and shallow, as evidenced by the fact that the minister did not know anything about it. I know that the minister only has carriage of the legislation in the Legislative Assembly, but the minister in the other house was not asked the question, otherwise the minister would have been able to answer my question when I first asked it. The government has put so little scrutiny on this whole subject that it would not have a clue whether it is being led by the nose by someone in the Department of Agriculture and Food who has an axe to grind on this—someone who has potentially compromised themselves through their own behaviour and has a motivation other than the best interests of the majority of farmers in Western Australia. The government has not even asked the question, so it does not know. The government does not even know where the reference material came from. That is not the only reference. Other claims made in the second reading speech beg a lot of questions, such as claims about global productivity. I assume that claim is based on the same reference from the International Service for the Acquisition of Agri-biotech Applications. Did the claims that global crop productivity has increased over time come from ISAAA? What about references to the gain in cumulative farm income for genetically modified canola in Australia? Who gave the minister that data? Who gave the minister that statistic? How much of that is in Western Australia as opposed to in other states?

Mr J.M. FRANCIS: I take this opportunity to provide the member for Warnbro with more information, because I can assure him that every statement made in the second reading speech that was originally delivered in the Legislative Council is referenced with a source. For example, let me give the member some statistics. Between 2008 and 2013, the cumulative farm income gain for GM canola in Australia was $54 million.

Mr P. Papalia: What does that mean?

Mr J.M. FRANCIS: It is the cumulative farm income gain.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: That is from page 52 of the 2015 G. Brookes and P. Barfoot paper, "GM crops: Global socio-economic and environmental impacts 1996–2013."

Mr P. Papalia interjected.

The ACTING SPEAKER (Mr N.W. Morton): Member for Warnbro, you can seek the call again and ask another question. Please do not interject while the minister is trying to answer your first question.

Mr J.M. FRANCIS: I will get to the member for Warnbro's question in a second.

My second point is that in 2013 alone, GM canola generated an average farm income gain of $78 per hectare for Australian growers, with a total farm income gain of $17.8 million. That is from the same authors G. Brookes and P. Barfoot in their 2015 article, "Global income and reduction impacts of using GM crop technology 1996–2013". The point is that all those claims made in the second reading speech were researched and sourced.

Mr C.J. TALLENTIRE: This is an extraordinary situation because the current Minister for Agriculture and Food never spoke on the Genetically Modified Crops Free Areas Repeal Bill 2015 in the other place. I do not know the new Minister for Agriculture and Food particularly well, but I know his background, and given the talent pool on the other side, he is probably a good selection for agriculture minister. However, it is an extraordinary situation to be looking at legislation upon which the current minister has not even spoken and the minister is acting with carriage of this bill in this place, but he is the first to admit that he has no expertise about it. When questions are put about the validity of some of the claims, they have to be challenged. Where does the figure of $78 per hectare for Australian growers come from? The minister suggested it is from Brookes and Barfoot, but let us just think about what that statistic could actually mean. GM canola generated an average farm income gain of $78 per hectare. Can the minister tell me what the typical per hectare return is on grain farming in Western Australia so that we can make a comparison? To throw a figure out there of $78 per hectare is meaningless.

The ACTING SPEAKER (Mr N.W. Morton): Just before the minister provides his answer, if he is going to answer that question, I know that we have given the member for Warnbro some latitude in his line of inquiry

before, but having had a chance to read the bill, clause 1 deals purely with the title of the bill. Clause 3 is probably more pertinent to some further investigation into what is being repealed. If members want to ask those sorts of questions, I think they are more appropriately asked under clause 3 rather than under the title of the bill, which is what is being dealt with now.

Mr C.J. TALLENTIRE: Further to that —

The ACTING SPEAKER: The member cannot seek the call consecutively.

Mr M.P. MURRAY: I understand what the Acting Speaker is saying about the title, but it is of concern that the choice of title gives the impression that there are no rules whatsoever on GM grains to be planted in the future. I am sure that even the Premier would have some concerns about that after listening to that speech some time ago that we spoke about and also following his meeting with the Japanese delegation who expressed concerns about the spread of GM. But when we look at the bill's title, in my view it means that there are no rules; it is open slather. The minister previously said that a farmer could plant what he likes when he likes, but what about if we use the title "GM free areas" again? Some people would like to keep areas GM free. There are no rules or regulations to stop contamination. It means people can grow GM crops anywhere and anytime. Could the minister please make a comment on that aspect?

Mr J.M. FRANCIS: I can only say so many times the naming traditions for bills that go through this chamber and become acts of Parliament. This bill is very black and white. It is a very short bill. It simply repeals the previous act, and I do not accept that there are no rules and regulations once this happens. A very strict commonwealth regulatory system will still apply in Western Australia as to what crops can and cannot be grown and where. That is an undeniable fact. If the member is suggesting otherwise, he is not helping the cause of the people he says that he represents who are against the use of this technology. He is promoting a falsehood. It has been made crystal clear in the Legislative Council and in here last week that very strict commonwealth regulations will still apply to growing GM crops in Western Australia.

Mr C.J. TALLENTIRE: I realise that we are debating the title of the bill, and, as I mentioned earlier, the title of the bill, in my view, is incorrect. This is a GM promotions bill. Yes, it seeks to repeal the one Western Australian check that we have—the Genetically Modified Crops Free Areas Act 2003. That piece of legislation was very cleverly designed, because it sought to put into a Western Australian context the issue of the use of GM crops. It was very cleverly done. The minister has just said that he thinks we have wonderful commonwealth legislation. I think he is referring to the Office of the Gene Technology Regulator. The minister might want to correct me if I am wrong on this, but to my knowledge the Office of the Gene Technology Regulator has no interest at all in the marketing issues around GM produce.

Point of Order

Mr J.H.D. DAY: As has been pointed out, this clause simply deals with the title of the bill. The debate that the member for Gosnells and others are progressing is the sort of material that should be and, indeed, was covered in the second reading stage. This is a very specific aspect. There are one or two other later clauses. These issues could be canvassed to some extent when considering one particular clause that repeals the previous act, but this is really just wasting time and shows the opposition's clear intentions. I ask them to be called to order to be relevant to the clause.

The ACTING SPEAKER (Mr N.W. Morton): Thank you, Leader of the House.

Mr C.J. TALLENTIRE: I do not believe we have had the opportunity to debate these issues given that we have a minister who is not an expert in the area. In the other place, we have a minister who never spoke on the bill. The Parliament has not adequately debated this legislation at all.

Several members interjected.

The ACTING SPEAKER: I will not have interjections across the chamber. The point of order has been made. The member for Gosnells has added to that. We are at the consideration in detail part of this legislation in this chamber. If there has or has not been debate up to this point, that is the member's prerogative, but I do take the Leader of the House's point of order in that we are dealing with clause 1, which is the title of the bill. Comments need to be very specific to that clause. Standing order 179 states —

> Debate will be confined to the clause or amendment before the Assembly and no general debate will take place on any clause.

Members, if you wish to interrogate the title of the bill, that is what it must be confined to. That is my ruling. Further members seeking the call on this clause will need to confine their debate to the title of the bill.

Debate Resumed

Mr C.J. TALLENTIRE: The title is misleading; it is wrong. It is not just about repealing one piece of legislation; it is about opening up Western Australia to any form of GM crop without any Western Australian control or constraint.

Mr C.J. Barnett interjected.

Mr C.J. TALLENTIRE: The Premier says I am wrong. Can the Premier tell me what control or constraint Western Australia will have on GM crops? Can the Premier tell me?

Mr C.J. Barnett: I'm not in the chair. The minister answered that a moment ago.

Mr C.J. TALLENTIRE: Can the minister please tell me what constraint Western Australia will have?

Mr J.M. FRANCIS: Mr Acting Speaker, I do not want to canvass your ruling about relevance as to this particular question that we are on, which is the name of the bill; I think I have made it pretty clear. The member for Gosnells does not think it is properly named. The government has a different view. Over 100 years of parliamentary history in this place says that the government is right on the naming convention of of bills. The member for Gosnells thinks it is wrong. He is entitled to his opinion.

As far as the member's other issue is concerned, which I do not believe is relevant whatsoever to the name of the bill, but I will, with a bit of latitude from the Chair —

The ACTING SPEAKER: A very tiny piece of latitude.

Mr J.M. FRANCIS: I remind the member that the Legislative and Governance Forum on Gene Technology oversees the activities of the Gene Technology Regulator and that the Western Australian Minister for Agriculture and Food is the representative on the Legislative and Governance Forum on Gene Technology for the state of Western Australia.

The ACTING SPEAKER: Before I take any more members seeking the call, again, we are getting into the machinations of the bill. This is clause 1; I cannot say it any clearer. We are talking about the title of the bill, none of the machinations that are embedded in the bill or what we are repealing. If members want to continue to discuss the title of the bill, they can go for it.

Mr C.J. TALLENTIRE: The minister has just made a point suggesting that there is some sort of WA constraint; I am saying that there is not. That is why the title of the bill is wrong. The title of the bill is absolutely wrong. This bill removes any constraint that the state of Western Australia might have had on the production of GM crops. The suggestion that the minister just made is that constraint is the Legislative and Governance Forum on Gene Technology, which oversees the activities of the Gene Technology Regulator. What is our voice in that? That does not provide for Western Australia to take a separate view from the rest of Australia. It does not at all. The WA Minister for Agriculture and Food is our representative on that federal ministerial council but that is not a gatekeeper role for GM crop production that might be suggested for Western Australia. There is no constraint. The title is wrong; this title is absolutely wrong. It should say this is the "open slather GM crop production bill". That is what it should be about. That would be the only accurate title for this legislation that is before us. This is not just about repealing; this is about opening Western Australia up without any constraint at all. That is a major thing. We are going to lose all kinds of marketing advantages that we currently enjoy. Yesterday I heard the Premier say that we are a clean, green producer. We are going to lose that. We will be tagged an open slather GM producer. That is going to cost us. We are losing the one piece of legislation that gave us the right to decide when and where, if and when we were going to have any form of GM production. We are losing that ability. It was a very cleverly designed piece of legislation.

Point of Order

Mr M.H. TAYLOR: Mr Acting Speaker, you have said regularly and consistently that this debate needs to be about the title of the bill but it never has been. I ask that you either call the member for Gosnells to order or —

Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Members! There has been a bit of latitude in this debate both from the minister and from members interrogating through the consideration in detail process. It is getting a bit tedious. Under standing order 97, I am within my rights to call members if they persist in this line of interrogation. I do not particularly want to go down that path. As I said, I would like to confine comments to the actual title of the bill. If there are further questions about what we are repealing and what machinations lie within the new bill, they can be asked under clause 3. That is my ruling. I take the point, member. The commentary and questions need to be about the title of this bill.

Debate Resumed

Mr C.J. TALLENTIRE: I am making the case that the title of the bill is wrong and that it misleads the people of Western Australia and this Parliament. This bill is about removing constraints on the growing of GM crops. That would be an honest tile for this bill. We are not doing that. Instead, we are misleading people —

Point of Order

Mrs G.J. GODFREY: The member for Gosnells is being very repetitive, giving the same responses.

Debate Resumed

Mr C.J. TALLENTIRE: This legislation is misleading the people of Western Australia. If some members find my demonstration of the point repetitive, they should join in arguing for the legislation to be properly named. They are obviously hearing my points and agreeing with them. We should be hearing from the member for Belmont why this is wrong. To demonstrate my point further—I have not had the opportunity to raise this yet—a claim is made in the second reading speech that the Genetically Modified Crops Free Areas Act, the legislation that is being repealed, is a disincentive for researchers to invest in Western Australia.

Several members interjected.

Mr C.J. TALLENTIRE: Clause 1 is the title of the bill.

Several members interjected.

Mr C.J. TALLENTIRE: The title of the bill is wrong; it is misleading people. A claim was made in the second reading speech that the bill we are repealing is a disincentive. However, no facts were provided on how it is a disincentive—no facts at all. It is absolutely disgraceful that we are misleading people. Anyone who reads and scans the orders of the day—the general public who look at our parliamentary website to see what legislation is coming up—would have seen a repeal bill. They did not see what this bill was really about—creating a situation in which there is no constraint on the commercial growing of GM crops. We are misleading people if we do not name bills properly. That is not something that we should be standing for. We should be making sure that our legislation is properly named and that people know what is going on. If everyone knew that we, with the passage of this legislation, are creating a situation in which the whole of Western Australia was open slather for GM crops, I think there would be an absolute outrage; there would be an outcry. People would see what it was going to cost us. They would see the marketing loss. They would see that we are losing one of our best marketing attributes. That is something that the Gene Technology Regulator and the ministerial council do not even look at or consider when they look at the potential for GM crops. I think this legislation is misleading in its title, and that is why this clause is such a significant issue.

Question to be Put

MR J.H.D. DAY: I move —

That the question be now put.

Division

Question put and a division taken, the Acting Speaker (Mr N.W. Morton) casting his vote with the ayes, with the following result —

Ayes (33)

Mr P. Abetz	Ms W.M. Duncan	Mr S.K. L'Estrange	Mr J. Norberger
Mr C.J. Barnett	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.M. Britza	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mr C.D. Hatton	Ms A.R. Mitchell	Ms L. Mettam *(Teller)*
Mr M.J. Cowper	Mr A.P. Jacob	Mr N.W. Morton	
Ms M.J. Davies	Dr G.G. Jacobs	Dr M.D. Nahan	
Mr J.H.D. Day	Mr A. Krsticevic	Mr D.C. Nalder	

Noes (18)

Ms L.L. Baker	Mr M. McGowan	Ms M.M. Quirk	Mr P.B. Watson
Mr R.H. Cook	Ms S.F. McGurk	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J.M. Freeman	Mr M.P. Murray	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Mr R.F. Johnson	Mr P. Papalia	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr J.R. Quigley	Mr P.C. Tinley	

Pairs

Ms E. Evangel	Ms J. Farrer
Mrs L.M. Harvey	Dr A.D. Buti

Question thus passed.

Consideration in Detail Resumed

Clause put and passed.

Clause 2: Commencement —

Mr M.P. MURRAY: It is unfortunate that the process had to take place just beforehand, because there was only one speaker to go. If the minister wants to keep jumping the gun like that, we will extend each clause as we go through. That is unfortunate, but my question is about when the act comes into operation, and the exact process from here on in. I believe that the bill has been pushed through because of lobby groups that are frightened about the Labor Party getting in at the next election. A third of the farmers who want this measure belong to one particular group, which could not be seen as being friendly to the Labor Party. In saying that, what does the minister see as being the process once the bill has been passed, and what will happen on the ground? Does the minister see that there will be open slather, as has previously been claimed?

Mr C.J. TALLENTIRE: The commencement date is a serious issue. When we are dealing with agricultural crops, there is always an issue around commencement dates and timing. Noting our parliamentary procedure and the issue of royal assent, I want to know from the government what intentions it has for the commencement date. I accept that there may be royal assent matters beyond the Parliament's control, but I am curious to know whether there is an intention to have this legislation in place, and therefore the current legislation repealed, before the next seeding time, which could probably be dated to about April or May next year. I am keen to know whether that is the intention and whether we are looking at a situation in which, come the season for the seeding of next year's crops in the wheatbelt, there is the possibility of seeding any of the genetically modified crops allowed by the Office of the Gene Technology Regulator. As we have established, that is a body over which the people of Western Australia have no control. We have some input because our minister is on the ministerial council, but we have no control over the regulator's decision-making. Are we looking at the seeding season in 2017 being one in which anyone with a GM crop will be allowed to grow it? I want to know whether that is the case. When is the starting date for this legislation? When will it come into effect? I think that is a major issue. I know that people who are seeking to enter this Parliament have vested interests. I think it is correct that the Liberal candidate for the seat of Central Wheatbelt is one of those who authored the original Liberal policy on this matter, and I gather that that person has received preselection for that seat in the March election.

Mr S.K. L'Estrange: Relevance?

Mr C.J. TALLENTIRE: That is relevant, because we are talking about the timing of this legislation coming into effect. If some candidates are going to be claiming that they are partly responsible for the change in policy, we need to know about that. We need to know when the legislation will come into effect, because I want to know when Western Australia becomes open slather for the growing of GM crops. It should be an issue at the March election. It may well turn out that it is too late for anyone to do anything about it except voice their disapproval at the ballot box. March 2017 is also probably one of the latest dates on which people would be putting in their orders for the grains. I think the member for Central Wheatbelt will have a particular interest in this, given that the author of the Liberal Party's GM policy will be opposing her at the next election.

Ms M.J. Davies: We are in furious agreement.

Mr C.J. TALLENTIRE: You are in furious disagreement?

Ms M.J. Davies: I won't be voting with the Labor Party on this.

Mr C.J. TALLENTIRE: The member for Central Wheatbelt is in agreement with her opponents.

Several members interjected.

Mr C.J. TALLENTIRE: I think the member dismissed an opportunity there because —

Ms M.J. Davies: People call my office on a regular basis to ask for this bill to be passed. You are causing enormous concern and difficulty in my electorate because those growers want this passed. They are very, very happy for us to guillotine this debate and get on with it.

Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Members! Members, I am on my feet! The member did direct a comment to the member for Central Wheatbelt, which makes it difficult for the Chair to then provide protection. If we could draw our comments back through the Chair and keep them to the clause that we are dealing with, and if members could desist from interjecting, that would be fantastic.

Mr C.J. TALLENTIRE: Commencement is a really important issue. The minister has advisers from the Department of Agriculture and Food with him I am very keen to know when the orders will be put in by officers from the Department of Agriculture and Food who are in contact with —

Mr S.K. L'Estrange interjected.

The ACTING SPEAKER: Member!

Mr C.J. TALLENTIRE: What was the member for Churchlands' comment?

The ACTING SPEAKER: No, let us not engage!

Mr C.J. TALLENTIRE: If he makes comments across the chamber, I want to be able to hear them.

The ACTING SPEAKER: It was not directed at you, which is why I called him up on it. Just continue, member.

Mr C.J. TALLENTIRE: Thank you, Mr Acting Speaker. I am really keen to know about the likelihood of farmers putting in orders for all kinds of genetically modified crops that they think they can grow in Western Australia when the next seeding time comes. I am talking about seeding.

The ACTING SPEAKER: Minister.

Mr D.A. Templeman interjected.

The ACTING SPEAKER: Sorry, member for Mandurah, I have already given the call to the minister. The member for Gosnells can seek the call again.

Mr J.M. FRANCIS: I am doing the job for the opposition Whip!

I can tell the member for Gosnells that it is the government's intention to follow the normal process once this bill passes through the Legislative Assembly—if it passes through the Assembly, and I am confident it will—to present it to her Excellency the Governor for consideration. I will not pre-empt when her Excellency may or may not do that; I am sure that she will follow the normal process. The member can make assumptions as to how long that may or may not take. I myself assume that it will not take too long. This bill will become an act and repeal the previous act; that is all it does. Out of the member's five minutes, that is really the only question that is relevant to clause 2, so I cannot add any more to it.

Mr C.J. TALLENTIRE: I want to know from the advisers who are with the minister when growers are likely to place their orders for various genetically modified crops—the grains to grow GM crops. That is essential information because if it turns out that, in fact, it is probably too late and farmers have already put in their orders for the grain that they will use in the 2017 sowing season, it gives us all some hope that with the victory of a Labor government, we might be able to overturn this legislation and thereby save Western Australia from becoming a genetically modified "grow whatever you want" place. I think it is really important to know the timing of this legislation and how it will interplay with the orders that people put in.

Ms M.J. Davies interjected.

The ACTING SPEAKER: Member for Central Wheatbelt!

Mr C.J. TALLENTIRE: If it is the case that it will be too late for people to put in their orders, there is some hope of keeping Western Australia GM-free—except for canola; for the time being, the horse has bolted on canola.

Mr M.H. Taylor interjected.

The ACTING SPEAKER: Member for Bateman!

Mr C.J. TALLENTIRE: However, as far as other crops go, there may be some hope that we can keep them GM-free. The only hope is the election of a WA Labor government in March 2017. I need to know when the orders for seed are likely to be placed. I am relying on the advice of the officers from the Department of Agriculture and Food to provide that information.

Mr J.M. FRANCIS: There are only two crops; it is not open slather. Only two GM crops can be grown in Western Australia once this bill is assented to. Does the member know what they are?

Mr C.J. Tallentire: Canola and cotton.

Mr J.M. FRANCIS: So it is not open slather, is it?

Several members interjected.

Mr J.M. FRANCIS: No, member, it is not open slather, is it?

The ACTING SPEAKER: Through the Chair!

Several members interjected.

The ACTING SPEAKER: Members, I am on my feet, again!

Mr J.M. Francis interjected.

The ACTING SPEAKER: Minister, I am on my feet. Please, through the Chair. Minister, can you direct your comments through the Chair. When people do not direct their comments through the Chair, it opens it up for this chorus of interjections across the chamber that does not make it easy for anyone, particularly the Hansard reporter who is trying to get an accurate record of this.

Mr J.M. FRANCIS: Member, when this bill is assented to, two GM crops will be allowed to be grown.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member!

Mr J.M. FRANCIS: In Western Australia, they are cotton and canola. I repeat that that does not equal open slather. It does not; let me make that clear.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, you can seek the call.

Mr J.M. FRANCIS: Having said that —

A member interjected.

The ACTING SPEAKER: Member for Albany, you are not even in your chair.

A member interjected.

The ACTING SPEAKER: Member for Albany, I call you to order for the second time. You are not in your chair. I gave you a warning but you were still not listening to the Chair.

A member interjected.

The ACTING SPEAKER: My point exactly. I call you to order for the second time.

Mr J.M. FRANCIS: If a farmer chooses to order a GM crop—if they go down that path—it is a commercial decision for the farmer. I will not pretend to advise farmers when I think that they should order their grains and seeds to grow these crops. I will certainly not ask the advisers from the Department of Agriculture and Food to suggest to me that I provide that commercial advice to farmers. It is a commercial decision for them if they choose to grow a particular crop, such as cotton or canola. However, I will take this opportunity to clarify with the member for Gosnells exactly what the opposition policy is, so we are crystal clear on it. From what the member has just said, am I wrong or am I right: if the Labor Party were to win the next election, it would repeal this repeal bill? Is that the Labor Party's policy?

Mr C.J. Tallentire: We'll see if we can.

The ACTING SPEAKER: Minister! Minister!

Point of Order

Mr M.P. MURRAY: Exactly what you ruled, the minister is now canvassing.

The ACTING SPEAKER (Mr N.W. Morton): Thank you, member. I was actually in the process. Minister, through the Chair, please. I have asked other members to do it.

Debate Resumed

Mr J.M. FRANCIS: Sure, Mr Acting Speaker. Having listened to the member for Gosnells' claim and to make sure that we are crystal clear on it, I am curious to know what the Labor Party's policy is if it wins the next election. Is the Labor Party's policy, which claims to be pro–diversifying the economy, pro-technology, pro-science and pro–everything else —

Mr M.P. Murray interjected.

The ACTING SPEAKER: Member!

Mr J.M. FRANCIS: To be crystal clear, if the Labor Party wins the next election, will it bring back these restrictions and repeal this repeal bill? That is not the government's position. We have made our belief in the technology and science crystal clear in seizing the opportunities to diversify the economy, especially in the agricultural sector. I do not want there to be any doubt whatsoever about this amongst the voters in regional Western Australia.

Mr M.P. MURRAY: Having heard that political speech, it is with a little bit of concern that the orders have been coming from the Chair thick and fast about sticking to the bill, so I will try to do that.

The ACTING SPEAKER: I will make those rulings, member.

Several members interjected.

The ACTING SPEAKER: Members!

Mr M.P. MURRAY: I am trying to say that I will very much try to do that; I will try to be very good and stick to the bill and talk about clause 2, which is "Commencement".

The ACTING SPEAKER: It will be very good if you can stick to clause 2, member, and direct your comments through the Chair. It would be greatly appreciated, member for Collie–Preston. Thank you.

Mr M.P. MURRAY: One can only wonder what the word "Commencement" means when we look at this.

Several members interjected.

The ACTING SPEAKER: Members!

Several members interjected.

The ACTING SPEAKER: Members!

Mr M.P. MURRAY: Again, one can only wonder when, how and what the word "Commencement" means under this bill. I am trying to find out whether members opposite understand where we are coming from. I can see that with the provisions in this bill, not many of the representatives from the farming community have stayed in the house; they bolt out because previously, they have had different opinions.

The ACTING SPEAKER: Sorry, member. I think you started your remark by saying you would keep your commentary to the clause before the house.

Mr M.P. MURRAY: I did, but I am talking about when this bill will commence. That is what they were talking about and that was what I was saying. But they have commenced to leave the house, and that is what I am concerned about. I am concerned about the commencement part of the bill. More seriously now, I think the commencement time is a very, very serious issue when we talk about neighbour versus neighbour. That concerns me. It concerns me that there may not be enough time for neighbours to converse with each other about where they are going to plant and what rotations they are going to have, which are issues we have previously seen problems with. I think that is a serious issue with commencement times. That is why the question has been asked.

Mr D.T. Redman interjected.

The ACTING SPEAKER: Minister!

Mr M.P. MURRAY: That is why we are asking about commencement times as per the bill. I think that is a serious issue and some of the reasons for that have been explained from the member for Gosnells' point of view. Having seen previous fights, arguments and court cases over who grows what and when, we will not have enough time for these people—farming groups—who want to be GM-free or who want to grow GM —

Mr D.T. Redman interjected.

The ACTING SPEAKER: Minister for Regional Development!

Mr M.P. MURRAY: There are concerns with people who want to be GM-free and contamination—about weeds beside the road. It is very important to give the commencement times so that people can start the dialogue before we get into the growing season. That is something that I think is very, very important and I would like to hear from the minister about it.

Mr J.M. FRANCIS: I did not ever envisage that I would be explaining the definition of "commencement" when I chose to run for Parliament. "Commencement" means "start", "day one" and "the beginning". It means that similar to all kinds of government regulations, there are sometimes start periods. It is like the situation with fisheries. In some fisheries there are commencement dates when people are allowed to fish and there are final dates when they are allowed to fish. It is the same principle. Take marron, for example, or all kinds of fish —

Several members interjected.

The ACTING SPEAKER: Members.

Mr J.M. FRANCIS: The member for Collie–Preston of all people should know about commencement dates for things such as fisheries.

Several members interjected.

The ACTING SPEAKER: Members! Minister, through the Chair.

Mr J.M. FRANCIS: I really cannot make it any clearer. "Commencement date" is spelt out clearly in the bill. I have explained before that I am not going to pretend to guess when Her Excellency might consider providing her signature to this bill to turn it into an act.

Mr P.B. Watson interjected.

The ACTING SPEAKER: Member for Albany.

Mr J.M. FRANCIS: I would assume that it is probably not going to take too long once the bill has passed through the Assembly. I cannot really make it any clearer than that.

Mr M.P. MURRAY: I think it is incumbent on government to address how it is going to converse with 4 000 farmers about this commencement date. Will there be a letter? Will there be one of those press releases that generally go in the bin? Will we be talking about fish, for God's sake, which we were talking about two minutes ago, or will there be an ad in the *Countryman* or maybe even in the *Farm Weekly*, for goodness sake, to let people know that there is a commencement date? What will the government do about it?

Mr J.M. FRANCIS: The member says that there are 4 000 farmers and he may be right; however, since that number was originally conceived, there might have been some amalgamations of farms. All that aside, I am confident that every single person who wants to grow the two crops impacted, canola and cotton, in Western Australia is watching this debate very closely. I hope they are paying attention to the position taken by the Liberal Party and the National Party and I hope they pay attention to the position taken by the Labor Party so they can make an informed decision come the next election—as they did last election, by the way—about the two political parties on this side of the house and the one on the other side. When they go to vote they will know our positions about enabling farmers to seize the opportunity and plant an authorised GM crop. As I said, I expect this bill to pass through Parliament fairly quickly now; however, I understand —

Mr P.B. Watson: Did you do any research on this bill?

The ACTING SPEAKER: Member for Albany!

Mr J.M. FRANCIS: If the member for Albany was here last Thursday at 5.30 pm, he would have heard me explain at length how in 2009 I spent a lot of time at Curtin University with professors who were developing and knew a lot about this kind of technology. That was way before I had anything to do with the carriage of legislation in this house. I have done a bit of research over the years on this. But to cut to the chase, the point is that I get that the Labor Party does not support this bill and that is fine. That is the magic of democracy. The Liberal party and the National Party—the government—supports this legislation, and I think we are just going to have to agree to disagree.

Question to be Put

MR J.H.D. DAY: I move —

That the question be now put.

Mr P.B. Watson interjected.

The ACTING SPEAKER: Member for Albany, you are on two calls.

Division

Question put and a division taken, the Acting Speaker (Nathan Morton) casting his vote with the ayes, with the following result —

Ayes (33)

Mr P. Abetz	Mr J.H.D. Day	Mr S.K. L'Estrange	Mr J. Norberger
Mr F.A. Alban	Ms W.M. Duncan	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Mr J.M. Francis	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Mr C.D. Hatton	Ms A.R. Mitchell	Ms L. Mettam *(Teller)*
Mr V.A. Catania	Mr A.P. Jacob	Mr N.W. Morton	
Mr M.J. Cowper	Dr G.G. Jacobs	Dr M.D. Nahan	
Ms M.J. Davies	Mr A. Krsticevic	Mr D.C. Nalder	

Noes (17)

Ms L.L. Baker	Ms S.F. McGurk	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.H. Cook	Mr M.P. Murray	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Ms J.M. Freeman	Mr P. Papalia	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr J.R. Quigley	Mr P.C. Tinley	
Mr M. McGowan	Ms M.M. Quirk	Mr P.B. Watson	

Pairs

Mrs L.M. Harvey	Dr A.D. Buti
Ms E. Evangel	Ms J. Farrer
Mr B.J. Grylls	Mr F.M. Logan

Question thus passed.

Consideration in Detail Resumed

Clause put and passed.

Debate interrupted, pursuant to standing orders.

[Continued on page 7384.]

CONTAINER DEPOSIT AND RECOVERY SCHEME BILL 2016

Second Reading

Resumed from 24 August.

MR P.C. TINLEY (Willagee) [4.01 pm]: I rise to make my contribution to the second reading debate on this very worthwhile private member's bill—the Container Deposit and Recovery Scheme Bill 2016. Such a scheme is not new to us in this Parliament. We on this side of politics have long been champions of such schemes and once again we are staying true to providing some sort of environmental conscience to the way we conduct ourselves as an economy and as a society. It is therefore with great pleasure that I contribute to the second reading debate on the Container Deposit and Recovery Scheme Bill 2016, introduced by the member for Gosnells, our shadow Minister for Environment, and I lend my support to something that is long past its due date.

For members who are new to this particular type of thinking, I remind them that this is not new; we have had a container deposit scheme previously. Of course, this was in the days when a lot of members in this chamber were running around the back of Charlie Carters and the local delis down at the beach to collect old soft drink bottles and returning them at 5c a throw. In subsequent years, members of scout groups made quite an effort out of bottle collection drives to raise money for their troop or for a particular cause, if they were in those sorts of groups, as I and many of my friends were. But it was not a legislated container deposit scheme in those days, for those members who are old enough to remember. It was actually driven by the manufacturers of the products. They provided an incentive to return the containers because at the time it was economically worthwhile for them to wash and re-use them. Of course, with the advent of plastics—I did some research but I could not find exactly when that occurred; I suspect it was in the late 1970s or early 1980s when that technology came into play—the cost of recycling products, including glass, by the manufacturers was overtaken by the lower value of simply using new plastic containers. We then saw the phasing out, in large part, of glass as the predominant material for the containment of soft drinks and other products.

One could actually look at this from the perspective of a failed market, if you like. A market previously existed with which the community engaged to meet the demands of the manufacturers and to gain some economic dividend. Of course the manufacturers, as the purchasers in this case, gained economic value from being able to recycle the product. There was nothing environmental about the previous container deposit scheme. There certainly was not anything environmental in terms of health, because a lot of us took our $1.20 from returning a dozen bottles and went straight to the deli and got a bag of mixed lollies and had a game of pinball! It was of great social benefit to us, I suppose, but ultimately it was never an environmental act, unlike the container deposit and recovery scheme identified by the member for Gosnells in his second reading speech for this bill. He made particular reference to the fact that we have been here before, certainly from the Labor side of the ledger. Hon Sally Talbot and the former Leader of the Opposition Hon Eric Ripper presented a very similar bill in the thirty-eighth Parliament in 2011, so here we are again, circling back on this, to see whether we can prompt the government to accept that the evidence now requires us to look carefully at a container deposit scheme.

Yes, this bill quite clearly has an environmental dimension to it. We have all seen the images of the oceans filling with plastics and other waste and the introduction into the food chain of some dangerous trace chemicals such as lead, zinc, mercury and these sorts of things. They are coming up through the food chain and we and our children are going to be affected as consumers in the food chain, which we have an impact on and influence over. There is evidence in support of introducing container deposit schemes like this, but there are also wider issues of general household waste that have parallels with this bill and need to be considered.

There is an economic movement known as The Blue Economy that promotes the idea of zero waste. A significant amount of academic work has gone into it, and it is no surprise that Scandinavian countries have led a lot of this thinking and have asked: can we create an economy, a capitalist system, that has zero waste? It is not just about working towards zero waste, it is about actually achieving zero waste. In some Scandinavian countries, particularly Norway, it has been achieved, but it is piecemeal and isolated. But that tells us that some people are taking this issue particularly seriously. I should be very clear about zero waste: it is in reference to anything that is manufactured and human-made and that aggregates two or more compounds together. Some of it is very simple, such as wood and putrescible waste, as it is known; that is pretty simple. But we are talking about trying to find technologies for assimilating all these compounds back into the economy in a meaningful way that adds value, so there is some economic benefit and it is worthy of consideration.

Here in Western Australia I note that Treasury announced in June that household recycling rates had dropped by one per cent in the 12 months to 30 June down to 40 per cent. That is 20 per cent lower than the 2015 targets set under the government's waste strategy. Clean Up Australia, which a lot of members have gone out there and had a go and supported, has said that Western Australia has the most littered bushland in Australia. It estimates that beverage containers make up 21 per cent of the state's total litter, and beverage containers made up 26.9 per cent of the Western Australian total clean-up effort. Beverage containers comprise a very large group and are

overrepresented in general waste around the state. It is high time that we identified this opportunity to engage the community. As I said in my opening comments, I would not call this problem strictly an environmental problem. It is clearly that, but there is another aspect. If we create economic value in a system that requires attention for other reasons, then we will get economic participants in that system. It is simply about the market. I believe in markets; they are powerful forces if they are framed correctly. Governments participate in markets every day of the week. I refute the claim of any businessman that governments should get out of the market and out of the way. Such claims are just not true. Governments frame markets every single day. There is always a debate about the extent to which governments should involve themselves in markets; it is always open to interpretation and it depends on the outcomes.

I can give one example in which the government has framed a market. It is not the only example, but it is one of the most topical at the moment, and it is the taxi plate industry. The taxi plate industry is a framed market; it is regulated, established and managed in large part by the government. A particular problem arose recently when disruptive technology and innovation came along in the form of Uber and other ride-sharing apps. That disrupted the market. In that case, the government had to reframe the market by looking at it and introducing legislation to reframe the market. Container deposits and recycling of waste is no different. All we need to do is establish the framework in which the economic factors can participate. Some say that that will create further imposts for manufacturers, but I highlight to members here that government can also send signals to the market. It can use the regulatory controls and levers that are produced in this house to send signals to the market. The signal we need to send to the market—in this case the manufacturers—is that we will not accept that it is business as usual. We need to attend to the problem that has resulted in 26 per cent of total litter collected in Western Australia by Clean Up Australia.

We are not the only state that has to do it. It is not as though we are leaning well forward or are mavericks in the field. It has been a long-held practice since the 1970s. South Australia's Beverage Container Act 1975, enacted in 1977, had a very significant impact on beverage containers entering the litter stream in South Australia. Its record, four decades' worth, has demonstrated the benefits of container deposits. South Australia had reported return rates of around 80 per cent and low levels of beverage container litter. I am sure that the manufacturers of products supplied in South Australia also supply the Western Australian market in some part—some of them would—yet they participate in the South Australian and Western Australian markets and do not seem to be going out of business. I would be happy to hear from the minister whether he has any evidence that the "onerous" costs of funding a container deposit scheme is causing businesses to fail in South Australia.

The Senate report into marine plastic pollution in Australia contains very troubling statistics that we need to consider. Of course, Western Australia does not act in isolation; it has the largest piece of coastline in the Commonwealth of Australia. The Senate report concluded that beverage container waste is the largest contributor to marine plastic pollution in Australia and represents 60 per cent of all plastic rubbish recovered from waterways and beaches. Sixty per cent of that rubbish comes from plastic containers. We need to have a really hard look at that.

The Queensland government is going to introduce its scheme in 2018. It will be interesting to see how much recovery Queensland gets from its system. I have not looked at the Queensland legislation in great detail, but we need to understand that we are not alone on this fundamental problem.

Just today, the Auditor General brought down a report that highlights the performance of the government. The report, titled "Western Australia's Waste Strategy: Rethinking waste", provides very sobering reading, because it contains evidence that there is a particular problem with not only container deposits, but also the three streams of general waste. The report states —

> Western Australia's … waste production was estimated at 6.2 million tonnes, or 2.4 tonnes per person, in 2014-15.1 Only 42% was diverted from landfill …

Nearly 60 per cent of the total waste of Western Australia ends up in landfill. We need to take that seriously. We have a great opportunity to create the sort of economics that are needed around this to make it viable and to grow businesses out of it. Businesses are doing it. For example, in my area—in fact, a little bit out of my area and probably in my new area—a Bibra Lake company was lucky to get a contract by competitive tender, funded by half a dozen councils, to go around only the south metro area to pick up mattresses.

Mr A.P. Jacob: A soft landing!

Mr P.C. TINLEY: That is very witty, minister.

They go around and collect mattresses. Members will know that ensemble beds are made up of top mattresses, hard bases and legs. They take what they collect back to a little nondescript factory unit in Bibra Lake and separate the parts mechanically and manually. They strip off the whole bottom pallet.

[Member's time extended.]

Mr P.C. TINLEY: They strip off the bottom pallet with one mechanical device. They bag up that fill and take off all the material from the top. That gets shredded and is compressed into bags similar to wool bales. The bales are then put into containers and sent east, of all places. The springs and metal work recovered from the beds is compressed and crushed and turned into, I think, about 50-kilo blocks of metal and are sent off down the road to Sims Metal and recycled. How many mattresses could there be? They collect hundreds. Hundreds of mattresses are picked up at every council's verge pick up. Members deal in their electorate offices all the time with the issue of the unsightliness of piles of unwanted household waste on the verge. We know from the Auditor General's report that nearly 60 per cent of that waste goes to landfill.

Local government is leading the way by creating jobs and allowing businesses that are part of the recycling industry to thrive. Despite turning out for Clean Up Australia Day or joining groups in our electorates that look after a particular piece of bush by cleaning it up and those sorts of things, recycling is not something that we do out of the goodness of our hearts; it is hard economics. We can apply a lot of technology to recycling to create a proper business opportunity for Western Australia. The scale is not small. We are talking about 2.4 tonnes of waste per Western Australian every year. According to the Auditor General, 58 per cent of waste goes to landfill. Of course, we do not travel well compared with other states. The Auditor General referred to national reporting for 2010–11. Admittedly, it is a little dated, but I imagine the trend has not changed, given the Auditor General's previous statement about waste produced per person. The Auditor General's report found —

> … that WA's diversion rate of 39% was lower than most other states and territories, and much lower than the national rate of 60%.

The rest of the country is diverting 60 per cent of its waste and we are only diverting 39 per cent of our waste. Obviously, doing the numbers, there has been slight improvement, because the Auditor General previously reported that in 2014–15 only 42 per cent of waste was diverted from landfill. We made an adjustment on that of three per cent. We have improved by three per cent, but we have a long way to go to even pick up the slack. We are off the pace on treating and recycling waste compared with other states, and that is not something we should be very proud of.

For the benefit of members and me, we manage waste in three streams. There is municipal solid waste from local governments; construction and demolition waste—C and D—which I have had a particular personal involvement with over the years; and commercial and industrial waste, which a lot of the organic waste fits into. This is a damning report. I will not overreach; this is a less than satisfactory report on this government's approach to waste strategies and waste strategy management. In the Auditor General's words —

> … none of the four Waste Strategy targets —

I will not detain the house by discussing this any longer because members can look at them in the report for themselves —

> to divert waste from landfill were met in 2015 and data to inform the progress of waste management is incomplete and unreliable.

We cannot manage what we do not measure. If the minister responds in this debate, I am very keen for him to explain how we are not meeting our four waste strategy targets—not one of them—and more importantly how we do not know, if I read this report correctly, how poorly we are doing, because the data to inform the progress of waste management is incomplete and unreliable. We did not do our homework or something has happened and we have lost the data.

Mr A.P. Jacob: Have you read the response? DER addressed that in a response. There's a regulatory change.

Mr P.C. TINLEY: For completeness of my comments, I note the minister's interjection about the Department of Environment Regulation's response that found mitigating reasons why that is the case, but that does not really matter. I take DER's response as written, but the bottom line is that the trend that nearly 60 per cent of waste goes to landfill is the problem. We are not maximising the economic effect that could potentially be delivered for us. It is a singular problem. Actually, I do not see it as a problem. I think the report is a problem and there are deficiencies, but I see it as an opportunity. We are coming from a low base. The rest of the country is recycling about 60 per cent of waste, but we are travelling at about 42 per cent. Coming off a low base is a great opportunity for us to find and create industries and jobs that will employ more and more Western Australians, where appropriate, to access, as I introduced in my remarks, what is called internationally the blue economy. If we start with this legislation, we can achieve a cultural shift. If we start with a container deposit scheme and people working towards reducing their waste, we can make an economic benefit by making a market for it. Where else could we go? What else can be recycled? Lead acid and other associated batteries are one of the biggest single contributors to leaching in landfill and they could be next. Why not look at batteries as something that we can create recycling technology around?

Mr A.P. Jacob: We have the household hazardous waste program, which the Auditor General did not touch on but he inferred, which deals with those sorts of issues at the moment.

Mr P.C. TINLEY: That is right. I thank the minister for the interjection—no problem—but how is that program going? We are off the pace.

Mr A.P. Jacob: In every trend we are improving. The Auditor General's comment is that we could improve faster.

Mr P.C. TINLEY: That is right. The Auditor General said that we are improving, but, again, we are behind the national average. It is not about arguing whether the government has been asleep at the wheel or any of those sorts of things; the facts in the Auditor General's report seem to speak for themselves. If the minister wants to take some solace from the fact that we are having some modicum of improvement, that is great, but this is a leadership issue and the government has to do a mea culpa. The government has to say that it could do better and work on the strategies that will improve the waste strategy it introduced in 2012. The government has to see what we can do to redress some of the problems that we have talked about.

Finally, I want to circle back to the container deposit scheme. Although critics of the scheme say that on the surface it looks like it will be an impost on business, I refute that claim because governments participate in free markets all the time. Governments send price signals and other signals to the market through regulatory controls all the time. We use containers in such quantities every day of the week and that needs to be addressed. I leave members with this final comment: we should reflect on our own lives. A lot of members of this chamber would have collected bottles and aluminium cans in their day and recycled them with particular groups or with their mates. Those days have gone. We are, me included, great users of what turns into plastic waste. We all try hard not to use plastic shopping bags. We all try hard to use reusable water containers and to not buy bottled water. When members go to their polling booths at the next election, note how many bottles are stacked up around their volunteers' tables, which will become more plastic waste. We are part of the problem, but, uniquely, in this chamber, we are 59 people who can change the way we attend to this problem and the way we approach recycling to create a positive part of the economy. That is the opportunity we should be looking for. With that, I commend the member for Gosnell's bill to the house.

MS S.F. McGURK (Fremantle) [4.29 pm]: I would like to make a contribution to the second reading debate on the Container Deposit and Recovery Scheme Bill 2016. I add my support for the bill and my appreciation to our shadow spokesperson for the environment, the member for Gosnells, and his work in this area. He follows Labor's efforts in 2011, through Hon Sally Talbot and former Leader of the Opposition Hon Eric Ripper, in trying to get the government to bring itself into the twenty-first century on this point. In 2011, a very similar bill was introduced to the thirty-eighth Parliament, but it was rejected by the government on the basis that this sort of scheme would be more properly introduced on a national level. That would be nice, except it is not happening and there has been no sign of it happening for some time. As people are well aware, not only has South Australia had its scheme in place for a number of years, but also the Northern Territory has implemented a scheme and New South Wales and Queensland plan to implement a scheme in 2017 and 2018 respectively. Other states are getting on with it and it is time we did too.

It will be interesting to see the government's attitude to this bill. Although the government talks about being in favour of the policy, its time frame of 2018 is a long way out. The government has found it very difficult to bring itself to agree with bills brought before this house that have not been initiated by the government. I am referring to amendments to the Criminal Code to make agencies more responsive to family and domestic violence incidents. Labor moved some good amendments but the government could not bring itself to support them, not because it disagreed with anything we said, but simply because we initiated the bill. We will see how the private member's Limitation Amendment (Child Sexual Abuse Actions) Bill 2015 for victims of child sex abuse goes. The government said it would support that but when push comes to shove, it cannot bring itself to support legislation that is not its own. I will be interested to see how the government reacts to this bill.

In his second reading speech, the member for Gosnells outlined very well the statistics, which are compelling, in support of why we need a container deposit scheme. He quoted WA Treasury figures, announced recently, that in the 12 months to June 2016, household recycling rates have dropped by one per cent to 40 per cent. This is 20 per cent lower than the 2015 target set in the state's waste strategy. According to Clean Up Australia, Western Australia's bushland is the most littered in Australia. It impacts on 21 per cent of the state's total litter. Beverage containers accounted for 27 per cent of the litter collected in WA on Clean Up Australia Day.

I think people are well aware that our recycling rates are below the national average and our own targets. It has been demonstrated in jurisdiction after jurisdiction that container deposit schemes not only are successful with high return rates, but also create a flow-on effect to wider recycling. It is curious that this has come up today because today I was in the members' bar where there is often a recycling receptacle, but today I could not see it. The staff have told me that not enough people use it, so they have taken it away. People put material that could be recycled into general waste. I am not that interested in talking about ourselves too much in Parliament—I think we have pretty good working conditions—but we do have to provide some leadership. Really! Is it that hard to recycle our waste? We make jokes in my house about washing our rubbish, which we do regularly before we recycle. It is not that difficult, but I am continually shocked at how little material people recycle, including

young people. It is a very easy thing to do but, unfortunately, statistics confirm what I am saying; that is, our recycling rates are poor, awareness of the need to do it is poor, and there is confusion over what items can be recycled. For example, some councils recycle plastic bags and some do not, depending on the centre the recycling is sent to, and that causes some confusion. This point also strengthens the argument for a container deposit scheme, which it is demonstrated assists general recycling rates.

I am interested in an article in The Conversation published in June about why industry is still opposed to container deposit schemes that have been demonstrated to work in various countries and various states across Australia. I am conscious that the Northern Territory's initial move to establish a container deposit scheme was challenged by, I think, Coca-Cola Amatil. I am not sure whether any alcohol companies pursued that but certainly Coca-Cola did. The challenge was overturned. The article in The Conversation is by a group called BehaviourWorks Australia comprising some researchers at Monash University, who recently reviewed research and data from 47 examples of container deposit scheme trials around the world. They say that the work was commissioned by, but independent of, the New South Wales Environment Protection Authority. This was obviously in preparation of the New South Wales container deposit recycling scheme legislation. The authors from BehaviourWorks Australia said that the 47 schemes they looked at recovered an average 76 per cent of drink containers. In the United States, beverage container rates for aluminium, plastic bags and glass in the 11 states with a CDR scheme are 84 per cent aluminium; 48 per cent plastic and 65 per cent glass, compared with about half—39 per cent, 20 per cent and 25 per cent respectively—in the non-CDR states. The figures are similar in South Australia, which has one of the longest running schemes in the world. Eighty four per cent of aluminium is recycled in South Australia, 74 per cent of plastic and 85 per cent of glass compared with only 63 per cent of aluminium, 36 and 36 per cent in the other states. I hope those figures are easy to understand. The levels of recycling are demonstrably lower in jurisdictions that do not have container deposit schemes.

The authors of the article in The Conversation say that some container deposit schemes donate refunds to charity, but people are more likely to return a container for a refund. Most schemes return a refund of around five to 10 per cent but they say some schemes in Canada include a refund as high as 40 per cent for large glass containers. The article states —

> CDR schemes reduce litter overall. Data from seven US states show 69–83% reductions in container waste and 30–47% reductions in overall waste.

The authors ask why industry has been so opposed to container deposit schemes. The public support it. I firmly believe that the public is in favour of this scheme and I cannot understand why we have not moved on it sooner. One of the arguments that industry puts forward against a container deposit scheme is cost. Industry says that there is a cost to the public, producers, jobs and the government. The authors of this article, who are from Monash University, state —

> We found little published evidence to support these claims. The few studies identified were either funded by the beverage industry or theoretical arguments without any empirical data.

Setting up the scheme that we are proposing in WA would be self-funded, as the member for Gosnells outlined in his second reading speech. Different schemes have different set-up costs. I think there will be a one-off contribution to the waste levy to set up the scheme in New South Wales. The people from Monash University's BehaviourWorks Australia state in the article in The Conversation —

> The most robust cost data, the Packaging Impacts Decision Regulation Impact Statement, was prepared for the Australian government in 2014. This found that CDR schemes were more expensive than other packaging recovery and recycling options, but reduced litter the most.

Even that study concedes that CDR schemes are more costly but they reduced the litter the most. As the authors of this article say, the community may well be open to a conversation or debate about whether the cost of implementing that sort of scheme is worth the return. I can speak without fear of any contradiction on behalf of my electorate to say that I think people would be firmly in favour of it but, more broadly, people understand that we need to do things differently if we are going to reduce landfill and litter, and if we are going to imprint a change in attitude in the community to recycling.

Finally, the article by the Monash researchers asks whether industry can do the job. The South Australian recycling scheme is industry-run. The scheme proposed today under the bill before us would be run by the Waste Authority and have locally established centres where people can easily go—at their local shopping centres, for instance—and deposit their containers. Containers are scanned and held in those receptacles and those people receive money or a credit to use at a shop. That would obviously be popular in that shop. As the member for Willagee said, that was something that I am sure many of us—maybe not the Minister for Environment—remember from when we were younger. We relied on taking those empties to buy some —

Mr A.P. Jacob: I had the aluminium cans from the Lions Club. I can remember that. I used to get some money for that.

Ms S.F. McGURK: Right; yes.

The researchers from Monash give a couple of examples from the United States of America, where Coca-Cola set up a reverse vending machine in Texas with a target of recycling three million containers a month. The scheme folded in October 2014, having achieved roughly a quarter of the target. Pepsi has an ongoing dream machine initiative of college-based reverse vending machines that commenced in 2010. It reportedly collected over 93 million containers by 2012. Although that sounds high, achieving the target of 50 per cent recycling would require multiplying this effort 400-fold. That is distinct from government container deposit schemes that are sustainable. The 40 government schemes that the Monash researchers looked at have operated for an average of 25 years and all except two are ongoing. They are sustainable schemes, which I think is what people want to hear. This makes sense on so many levels. As I have said, a couple of other policy issues make members of the public scratch their heads; they wonder what we do in here when we have not got organised and put this scheme in place. This issue is certainly one of them.

I will take a bit of time during this debate to speak about the efforts of the City of Fremantle to put a trial in place for a ban on plastic bags within the boundaries of its jurisdiction. It put this proposal out for consultation, initially proposing a scheme that would ban the use of single-use plastic bags within the city's confines, and if plastic bags were given to customers in stores within the city's jurisdiction, a charge would be required; therefore, a charge would be mandated. In fact, the City of Fremantle put that charge in place in its iteration of this proposal in response to some of the retailers who said that if the city proposed this, the retailers would probably get a bit of pushback from consumers, but they thought it would be a good idea and if everyone was doing it, it would be useful for them.

[Member's time extended.]

Ms S.F. McGURK: There was a proposal. I am not saying that proposal had 100 per cent support amongst the community, but it was debated and it is true that some retailers were concerned. Fremantle has a lot of passing traffic; people who are not just residents shop in and around Fremantle. There was quite a bit of debate. That matter went before the Joint Standing Committee on Delegated Legislation, of which I am a member. Initially, the committee decided to move a disallowance as it could not support the proposal and it was outside the provisions of the Local Government Act 1995 to put that in place. That first version of the trial for a ban on plastic bags for Fremantle council was disallowed. The Fremantle council went back and looked at its proposal and changed it in response to what it understood to be the delegated legislation committee's concerns; that is, it did not feel that it was appropriate for a council or any government to mandate to a retailer that they charge for something. That was one of the committee's concerns. Some people on the committee raised the concern that they did not think that the scheme was appropriate for a single jurisdiction, saying that it would be more appropriate for a statewide or national ban. Fremantle council proposed another version of the trial and sent it back and this time the delegated legislation committee did not recommend disallowance. It went before the upper house and one member, Hon Peter Katsambanis, decided that the trial was not a good idea and moved disallowance, arguing that that sort of trial would be confusing and if just one council tried something, why should one shop on one side of the council's boundaries ban plastic bags and a similar retailer on the other side of the road outside the council's boundaries would not? Despite the Minister for Environment saying publicly that he had no problems with the trial, in my view Hon Peter Katsambanis is essentially conservative and did not want to see this sort of initiative. He convinced the rest of his conservative friends in the other place that they should disallow the trial, and so it was quashed. It was such a lost opportunity. Rottnest now has a voluntary ban on plastic bags because of the amount of general litter that can end up in the sea. Despite the voluntary ban on plastic bags, the economy is still ticking over. Things are fine, and there has been no adverse reaction. Once everyone in an area does something people get used to it. It would promote a change in behaviour away from single-use plastic bags. Other jurisdictions in Australia—South Australia, Tasmania, the Australian Capital Territory and the Northern Territory—have also banned single-use plastic bags. It is only a matter of time before we start looking at implementing that sort of change to force some behavioural change in the community.

Looking at recycling rates, I am concerned that we cannot presume that people will see the commonsense in recycling or reducing the use of some of this material. Unless there continues to be reminders, public awareness initiatives and leadership by government, people revert to bad habits. The member for Willagee referred to the Auditor General's report released today on Western Australia's waste strategy. It is true that this report is less than complimentary, as the member for Willagee said. We can do a lot better on recycling and managing our waste, and we have a responsibility to do that. I firmly believe that a number of people in this house and in the community understand that we have a responsibility to the environment and our community, and also to future communities, to put in place measures that reduce waste and pollution.

The Barnett government likes to talk about its commitment to the environment, and likes to say that it supports initiatives that benefit the environment and, in this case, a container deposit scheme, yet in this case it had been put into the out years. However, let us look at its actions. It has voted once against this proposal. Let us see how it votes on this bill before the house today. When it had an opportunity to support one council in a discrete trial

of banning single-use plastic bags, it could not bring itself to do so. It would have been such a good opportunity to see how it could be implemented, with a view to implementing it much more widely, perhaps statewide, or simply leaving it to other councils to decide whether to implement the change. It makes a lot of sense.

Like some other members of this house, I support the Sea Shepherd organisation in some of the work it does in championing the marine environment. When I can, I participate in its beach clean-ups. They are held regularly in my electorate and nearby, on the river at East Fremantle and down at South Beach or CY O'Connor beach. A lot of small and large litter would end up on the seabed if it was not picked up, polluting our oceans. We know about litter, and we understand particularly how plastics do not go away. They continue to break down, but only to a point, and they do not go away, and the effects further down the wildlife chain can be significant.

For many different reasons, I support the Container Deposit and Recovery Scheme Bill 2016. It is long overdue, and I will be interested to see how the government votes on this issue.

MS J.M. FREEMAN (Mirrabooka) [5.15 pm]: I rise to speak on this very important bill, for which this side of the house has campaigned for a considerable time. Later, I will go through the history of the bill before us. The Container Deposit and Recovery Scheme Bill 2016 needs to be commended to the house and adopted, because it is time for action. In its response to the Auditor General's report on Western Australia's waste strategy, the Waste Authority states —

> Western Australians are avoiding, re-using, re-processing and recycling waste at an increasing rate.

The Auditor General's report, "Western Australian Waste Strategy: Rethinking Waste", which was released today, discusses the "make, use, dispose" economy. We see the juxtaposition of what we would like the community to do, which is re-use, re-process and recycle to reduce the environmental and economic costs of waste, with what is currently happening, which is the "make, use, dispose" economy. The community needs clear direction from Parliament and the government that it is committed and ready to not just propose, discuss, think about and announce, but actually deliver. It has that opportunity today, with a container deposit and recovery scheme for re-using and recycling in a manner that has been shown in South Australia to be effective, efficient and responsive to community needs, and actually delivers in reducing waste and increasing recycling rates. The Auditor General's report states that pay-as-you-go programs such as container deposit schemes provide financial incentives to reduce waste. He also states that we need to become better at recycling waste products. Western Australian waste production was estimated at 6.2 million tonnes, or 2.4 tonnes per person, in 2014–15, and only 42 per cent of that was diverted from landfill. Western Australia's diversion rate, of 39 per cent, was lower than that of most other states and territories, and much lower than the national rate of 60 per cent. It is quite a damning report. The introduction states —

> … none of the four Waste Strategy targets to divert waste from landfill were met in 2015 and data to inform the progress of waste management is incomplete and unreliable.

Further on, the report states —

> The State should be able to monitor progress and the effectiveness of specific waste strategies and funded projects. However, this is not the case. Monitoring of waste generation and recycling at the local, regional and state level, is affected by incomplete and unreliable data and inconsistent planning and progress reporting of projects.

We have an opportunity today to do something that is consistent and reliable and will lead to progress in waste reduction. He then goes on to state that regulation of waste management facilities can improve, and states very clearly at page 12 of the report —

> The Container Deposit and Recovery Scheme Bill 2016 to adopt a Container Deposit Scheme for drink bottles and cans in 2018 was recently introduced in Parliament.

That is what this bill is, I am assuming. It is what the Auditor General is saying has to be done. He continues —

> If adopted, this will add to state-based schemes implemented in WA to manage HHW —

I gather that is household waste —

> and electronic waste. Managing problem wastes is important to minimise illegal disposal and associated environmental and health risks and will provide a good opportunity to engage the whole community in waste avoidance and minimisation.

The auditor's report states that we need to do something and we need to do it soon. We need to see it delivered to the community.

The history in this place is that in December 2007, the Western Australian Labor government at the time was at the forefront of good waste management legislation through the introduction of the Waste Avoidance and Resource Recovery Act 2007. That legislation was the result of work done by Labor environment ministers from

2001, who were driving us towards taking responsibility for reducing waste in Western Australia. The purpose of that act was to input value into waste and include it in the economic cycle so that people could see that there was a benefit to waste reduction that countered the really high cost. In 2011 a private member's bill for container deposit schemes managed and administered by the Waste Authority was introduced into Parliament by the WA Labor opposition. That was voted down.

Mr A.P. Jacob: It lapsed; I don't think it was voted down.

Ms J.M. FREEMAN: It lapsed because we went into an election. I thank the minister.

However, it was never supported. There would have been times when it was debated in this house and it should have been supported at that time. It was clearly something that the WA Labor Party and the WA Labor opposition was very committed to. On 19 June 2013, Hon Sally Talbot put a motion on notice in the other house condemning this government for not introducing a container deposit scheme. That was debated to fruition only recently. It goes to show that this government has been on notice about the importance of a container deposit scheme for some time, but it has continued to not act in a timely matter. It has now introduced its own bill but without looking at the capacity to deliver to the community by putting in place the bill that is before us today.

That is really important because we know that WA recycles about 20 per cent of its cans and bottles, in comparison with South Australia, which has a container deposit recovery scheme and recycles about 80 per cent of its cans and bottles. WA spends about $107 per household on waste collection, whereas South Australia spends about $24 per household on waste collection. Clean Up Australia figures show that in WA, 40 per cent of all the rubbish collected is cans and bottles. It is a major issue in our community and it would greatly reduce our waste if this container deposit and recovery scheme bill were passed today and put into the upper house. It could ensure that the legislation is passed before Parliament comes to an end. We have only two more sitting weeks. If the government were really serious about this issue, it would get this bill through the house today and up to the other house so the legislation could proceed. If the government delays by voting down this bill, it cannot claim to be serious about this issue.

One billion cans and bottles end up in landfill in WA. That is a situation that can only benefit if we pass this bill today. I have a memory of the bottle-oh who used to drive around shouting, "Bottle-oh! Bottle-oh!" I can remember that as a child. My father used to drink from long necks, as they used to call them.

Several members interjected.

Ms J.M. FREEMAN: The point of all that is that throughout the early twentieth century, the cost of producing glass bottles was much higher than it is now and an industry grew around the collection of glass bottles. In those days, that was a historical container deposit recovery scheme. That industry dissipated as we moved to use more plastics. The bottle-ohs could actually make quite a bit of money. In 1904 they could buy a dozen beer bottles for 6d. I am showing that I was born when decimal currency was used!

Ms S.F. McGurk: Half a shilling.

Ms J.M. FREEMAN: There we go—half a shilling. I was born when decimal currency was used here.

The bottle-ohs could sell them to the bottle yard for 9d. The bottle yard sold to the brewers for 1s. The commercial re-use of glass bottles and the bottle collection industry had started to disappear by the 1950s. As the member for Gosnells, the shadow spokesman for the environment in this house, pointed out, it was phased out completely in the 1970s. My memory of it would be from that period of time. It obviously became an unviable industry. It was an era in which everything was done in plastics, not in refillable bottles. At that time the South Australia government adopted a polluter-pays principle and introduced and passed the South Australia Beverage Container Act 1975, which became operational in 1977. For a considerable period of time we have had a clear demonstration of the success and the capacity for a container deposit scheme to operate. It is simply unacceptable that there is any further delay. When we have raised the issue in this house before, it has been said that it is better to have a federal system. I understand that that is partially about the issue in the Northern Territory, which the member for Fremantle raised. That was a Federal Court challenge by Coca-Cola Amatil, Schweppes Australia and Lions Ltd using the Commonwealth Mutual Recognition Act. In response, the Federal Executive Council ratified a permanent exemption, making the Northern Territory container deposit scheme completely legal and permanent. I am not sure whether the Northern Territory needed an exemption because it was a territory or whether that is something that we will also require. Given the success of South Australia, the Northern Territory and the recent announcement by New South Wales that it plans to start a scheme in 2017—Queensland has also announced that it will most likely join with New South Wales —

Mr A.P. Jacob: And the ACT.

Ms J.M. FREEMAN: And the ACT. As I understand, the only place that is not keen at this point in time is Tasmania.

Mr A.P. Jacob: And Victoria.

Ms J.M. FREEMAN: Okay. Don't you love Wikipedia? I am sorry; I should probably never say in Parliament that I "Wikipedia-ed" it.

The state of Victoria had a container deposit scheme but it was rescinded. Victoria is not in favour of a container deposit scheme.

Mr A.P. Jacob: The Liberal Party supports it; the Labor Party doesn't.

Ms J.M. FREEMAN: We are doing it! Minister, this is the second time we have introduced it.

Mr A.P. Jacob: No, I mean in Victoria.

Ms J.M. FREEMAN: I think it is only a matter of time for Victoria. My point is about whether a state has an effective recycling scheme, which we clearly do not. The Auditor General's report states on the first page that we are not recycling as we should. The Auditor General has also stated that we need to take urgent action. Today, we have the opportunity to do that.

The South Australian scheme is criticised because it is run by industry. That means that the same collection points are not available. My understanding of the WA Labor plan is that it will be modelled on a hub-and-spoke scheme. The spokes consist of authorised collection depots in places such as supermarkets, service stations, convenience stores and large, authorised transfer stations or hubs that operate on a regional basis. On 21 June 2016 in Victoria, the City of Wyndham planned a trial of reverse vending machines that exchange empty cans or bottles for promotional vouchers; it would be interesting to see whether this trial has begun. The machines would hold up to 2 000 bottles or cans. Instead of cash, the machines reward users with vouchers to local attractions or entry into competitions. I suppose that without the benefit of having a 10c return, the machines would be less beneficial to community organisations because the deposit that people would receive from recycling their bottles can benefit community organisations.

[Member's time extended.]

Ms J.M. FREEMAN: From the point of view of the Mirrabooka electorate, anything that would encourage people to pick up waste in the area—particularly plastic bottles, water bottles, sports drink bottles, bottles from spirit-based mixed drinks and cans—would be of great assistance. Since being elected, I have battled with councils, local businesses and the Public Transport Authority over a strip of land that runs behind the bus station in Mirrabooka. At some stage, maybe during the 2013 campaign, most members went out to Mirrabooka bus station because people stood in front of it to talk about how the Metro Area Express light rail would be delivered into the area. People such as the Premier, and perhaps the minister too, may be familiar with the front of Mirrabooka bus station having held multiple media events there to tell the people that they would deliver something, which, unfortunately they have not delivered and had no intention of doing so. At the side of Mirrabooka bus station, along the fence, the litter is appalling. In some ways, the dumping is worse than some tip sites. The poor City of Stirling has to go in there regularly to clean it out. Quite often, there are lots of drink containers. I have no doubt that just this recycling program will not resolve the whole issue. However, I cannot believe that despite many attempts to try to get that area cleaned up and to have some process around dealing with littering, everyone still holds up their hands to say, "It's not us!" The City of Stirling comes in every now and again to do its best, but there is the constant, "It's not us." Having that sort of area in a town centre—admittedly, it is a little bit behind the town centre—does not reflect well at all on how the community perceives itself. Frankly, it is disrespectful of the community. Anything that will alleviate some of the dumping that goes on at that site will be of assistance, and I think this container deposit and recovery scheme could at least put a little bit of a dent in it because there will be a financial gain in not simply dumping plastic bottles there.

That is a major dumping area but we also have other areas. The Department of Housing has sat on land in the town centre for some 50-odd years and not developed it. It managed to develop, obviously, the bit that it wanted to build itself an office on. Thankfully, the Department of Health saw the error of its ways and sold part of that land so we could have a nursing home near Reid Highway. Those sorts of areas are like magnets for rubbish, particularly containers. I have no doubt that a container deposit scheme in those areas that were unfortunately left undeveloped—they were left undeveloped by government, which is even more unfortunate in an area that is only 15 or 20 minutes out of the city—would at least minimise some of the waste there. It is a really important issue.

I also want to congratulate the City of Stirling on coming through the process of going to three bins. For many years, it was very keen on its one-bin policy. The minister will know that I was never a great supporter of that. I thought that it seemed somewhat fanciful. I went to Atlas Recycling, and whenever I got there, I was always amazed that it was always spotlessly clean. I could never get over how clean something like it could to be. To this day, I think that one of the farms where Atlas used to say that it took things to recycle probably has some pretty amazing glass fragments and lots of things in the soil. I am not sure how effective that was. The idea of one bin needed some investigation. I can understand the idea; it has merit. However, unless it is done really effectively and things are not contaminated, it is not effective recycling. I understand that it may occur in some parts of the United States but I am never fully confident about the claims. I think it claimed to recycle 80 per cent of rubbish. It is no wonder that the minister's recycling figures have gone down with the City of Stirling coming out of that system!

Mr A.P. Jacob: You got it in one!

Ms J.M. FREEMAN: The minister cannot get me! The minister always had low rates of recycling; there has just been an outlier that no-one bothered to go to have a look at and give it some scrutiny or have a real capacity to think that perhaps it was not doing it!

The three-bin scheme is great. We absolutely love the green waste bin. I live in an area where there are avid gardeners. The green waste bins are always full and everyone walks around to check whether other people's green waste bins can be used. Big loans go on, with people saying, "I'm doing it this weekend!" and people bring their bins over to be filled. That is a good, community-oriented way of ensuring that people come together in a neighbourhood. Regarding the yellow-topped recycling bins, I am still concerned that if one household—as I understand it, minister, and I am happy for him to talk about this when he stands up—contaminates its recycling bin, the contents of the whole truck will go into landfill. If one household throws in something that is thought to be recyclable, the whole truck is contaminated. That is why it is so important we have a container deposit recovery scheme. If the yellow bins do not have the "purity" needed for recycling, it seems to me even more necessary that there is a strong incentive to recycle highly recyclable products. I understand aluminium cans are one of the most recyclable products in the world. The energy required to recycle them is less than to make a new can. If that is the case, it is imperative that the government support this legislation. The fact that there are still no incentives is an indictment on how the government has dragged its feet on an issue that has been ongoing for some time. There has been ample lead up to this bill and its adoption is necessary.

The other benefits of the bill are really clear. I understand that the Western Australian Local Government Association supports a container deposit scheme because it is just good business and it benefits local government. Local governments even benefit if the recycle bins can be revenue raisers. I know that the community I represent is keen on the bill.

I am constantly amazed at how much bottled water is drunk in the community I represent. I think 57 per cent of people in the Mirrabooka electorate are born overseas. Quite a large percentage of those people are from backgrounds in which English is a second language. The amount of people I see in Woolies, Coles, now Aldi—we have that as well—and IGA buying the large cartons of individual bottled water is frankly distressing, firstly, because of the financial impact. I have no problem with the fact that bottled water is a better thing to have in the fridge of the local deli or service station, so when people pull in and are thirsty, they have the option of bottled water. There was a time I can remember when those places only had lolly water that is not thirst-quenching, which I do not drink. I think that it is good to have the opportunity to have bottled water when it is convenient, but people use bottled water in small bottles as a daily household product because they do not like or trust our drinking water. I speak to people in the community about this. Often I see people I know walking out of shops with trolleys full of bottled water and I will ask them why they have it and I tell them it is really expensive. They tell me they are never sure about tap water quality. Apart from the fact that many of them have young children who are not getting the benefits of fluoride in water, the quality of the water in Western Australia is exemplary; it is fine.

Ms M.M. Quirk: It is a bit hard up in our neck of the woods.

Ms J.M. FREEMAN: Is it a bit hard in our neck of the woods, member for Girrawheen?

Ms M.M. Quirk: Yes. We do not get the Mundaring Weir water that goes to the western suburbs. We just get the water from the Gnangara plantation.

Ms J.M. FREEMAN: I am reliably told by the member for Girrawheen that we get water of lesser quality.

Ms M.M. Quirk: It is very hard.

Ms J.M. FREEMAN: I do not disagree with the member for Girrawheen. She has been around a lot longer than I have and will know this.

Several members interjected.

The ACTING SPEAKER: Members!

Ms J.M. FREEMAN: I think that tomorrow the member for Churchlands should bring in some of his water.

Several members interjected.

Ms J.M. FREEMAN: I think I have the floor.

The ACTING SPEAKER: Members, let us settle down.

Ms J.M. FREEMAN: I just want to finish my contribution.

Several members interjected.

The ACTING SPEAKER (Mr P. Abetz): Members, I am on my feet. The member only has one minute left, so please give her your undivided attention.

Ms J.M. FREEMAN: Thank you, Mr Acting Speaker—undivided attention.

It would be really worthwhile for the Waste Authority, local governments and the Water Corporation to have a really good think about how people can be encouraged to stop drinking bottled water as a household item. Consumer choice is consumer choice, but it would be worthwhile.

MR A.P. JACOB (Ocean Reef — Minister for Environment) [5.25 pm]: I am thankful for the opportunity to address this Container Deposit and Recovery Scheme Bill 2016. Let me say from the outset that I welcome the opposition's support of this government's decision. The decision has been made at a cabinet level that the Western Australian government will introduce a container deposit scheme and that we will align our container deposit scheme with that being introduced in New South Wales, Queensland and the ACT. This is consistent with the position that this government has held since it came to power in 2008; that is, we would prefer to have a consistent approach across the commonwealth. We actively pursued that through the Council of Australian Governments process.

Mr P.B. Watson: When are you going to introduce it?

Mr A.P. JACOB: I just answered that, member for Albany. It will be introduced in alignment with Queensland, as it is —

Mr P.B. Watson: So it will not be before the election?

Mr A.P. JACOB: I will get to that too, member for Albany. By all means keep interjecting. We will align with —

The ACTING SPEAKER (Mr P. Abetz): Minister, I do not want you to encourage interjections!

Mr A.P. JACOB: I do not mind the odd interjection!

This is a decision —

Several members interjected.

Mr A.P. JACOB: It is good to see the Labor Party supporting this government's initiative and I will point out, given those interjections, that it never did it. The Labor Party never did it.

Mr J.R. Quigley interjected.

The ACTING SPEAKER: Member for Butler!

Mr A.P. JACOB: The Labor Party was in government.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Through the Chair, please.

Mr A.P. JACOB: I will take that interjection, because those opposite were in government from 2001 to 2008. Indeed, I can recall some public comments from the Labor Party's environment ministers.

Several members interjected.

The ACTING SPEAKER: Members!

Mr A.P. JACOB: We have committed to it from a few weeks ago. The government decision has been made. We are aligning with New South Wales, Queensland and the ACT and our introduction will be at the same time as Queensland's rollout in mid-2018.

Several members interjected.

The ACTING SPEAKER: Members!

Ms R. Saffioti: In mid-2018? Are you serious? You have been there eight years.

Mr A.P. JACOB: Does the member for West Swan know what? The Labor Party can talk a big game in this place, but its list of achievements in the environment portfolio is woeful when compared with what this government has done. The Labor Party is really good at grandstanding, it is really good at talking a big game, but this is the space of delivery.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan!

Mr A.P. JACOB: Do you know what, Mr Acting Speaker, you go back to our —

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan, you do not have the call.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan, I do not want to have to call you. I will tolerate short, sharp interjections, but not ongoing ones.

Mr A.P. JACOB: I encourage members opposite not to get too caught up in obstructionist opposition like it did for the biodiversity bill. Indeed, waste and litter reform —

Ms R. Saffioti: Why haven't you done it? Why haven't you done a container deposit scheme—eight years, 2018?

Mr A.P. JACOB: You have the most inane objections, do you know that?

The ACTING SPEAKER: Member for West Swan, we have heard that interjection about 10 times; that is sufficient now, I think.

Mr A.P. JACOB: From the moment that this side decides to make it our policy, we make the decision, we are getting on working on it and we already have a start date. The Labor Party is so bereft of credibility in the environment portfolio.

Several members interjected.

The ACTING SPEAKER: Members.

Mr A.P. JACOB: When it comes to the environment portfolio, waste and litter reform is the only area so far that the Labor Party has not attacked simply for the sake of obstructionism.

Ms R. Saffioti: Where is the legislation?

Mr A.P. JACOB: I will get to that in the second.

Ms R. Saffioti interjected.

Mr A.P. JACOB: It is good that the member for West Swan is supportive of the policy decision. She thinks she is so smart. It is good —

Ms R. Saffioti interjected.

Mr A.P. JACOB: Yes. It is —

The ACTING SPEAKER: Member for West Swan, I am going to call you in a moment if you do not desist.

Mr A.P. JACOB: Please do, Mr Acting Speaker, because I would answer that interjection if she could have a modicum of manners and just let me answer it.

Several members interjected.

The ACTING SPEAKER: Members, just settle down.

Mr A.P. JACOB: I welcome your support, members.

Several members interjected.

The ACTING SPEAKER (Mr P. Abetz): Members, we have had a bit of fun, but I think it is time to settle down now to allow the minister to communicate with the house and so that Hansard can actually record what is being said. I am going to start being a little stricter from here on. Please, let us conduct ourselves in an appropriate manner.

Mr A.P. JACOB: I was going to be polite to members opposite because I think they are seeking to assist what the government is doing. Certainly, they are putting on the record that their position is supportive of our policy, but just like everything else they do in the environment portfolio, even when they say they are trying to help, they are actually just getting in the way, and this bill is a really good example.

We will not be supporting this bill and here are the three reasons why. This bill is unaligned with what the other states are doing. Our position has consistently been that we want to align as closely as possible to what the other states are doing. This bill does not align with how South Australia does it, this bill does not align with how the Northern Territory has done it, and this bill does not align with the New South Wales model. That is the first reason. The second reason this side of the house will not be supporting this bill is that it is unnecessary. The advice I have is that we currently have the legislative provisions in place to pursue a container deposit —

Ms R. Saffioti: Well, do it!

Mr A.P. JACOB: We are! You never did; we are. You never did and we are, and you hate it.

The advice I have is that standalone legislation is unlikely to be needed —

Several members interjected.

The ACTING SPEAKER: Member for Butler, I am on my feet. Let us give the minister the decorum he deserves. As I mentioned, I will tolerate short, sharp interjections, but this ongoing drowning out, this wall of noise, is not acceptable. I will call to order the next person.

Point of Order

Mr N.W. MORTON: Point of order.

Mr J.R. Quigley: This ought to be good!

The ACTING SPEAKER (Mr P. Abetz): Member for Butler, I will call you because we hear points of order in silence.

Mr N.W. MORTON: Mr Acting Speaker, you said you would tolerate short and sharp interjections. I do not think anything that members opposite have said has been either short or sharp, so I encourage you to call members opposite to order.

The ACTING SPEAKER: That is more a comment, member for Forrestfield. I note what you have said; you have basically repeated what I have been saying.

Dr A.D. BUTI: Mr Acting Speaker, further to the point of order, it sounded like the member for Forrestfield was questioning your decision. Should you not call him to order as you did my good self a few weeks ago?

The ACTING SPEAKER: I did not understand it that way, member for Armadale.

Dr A.D. BUTI: You did when I questioned you. That is surprising, is it not?

The ACTING SPEAKER: He did not call me into question. Minister, please proceed.

Debate Resumed

Mr A.P. JACOB: There are three reasons that we will not be supporting this bill. First of all, we have consistently held a position, ever since coming into government in 2008, that our preference is for as close to a national scheme as we can get. We will align with what is looking very close to being a national scheme. This does not align with any other state. The second reason is that it is unnecessary.

Mr J.R. Quigley interjected.

Mr A.P. JACOB: The third reason, member for Butler, with your loud interjections, is that from the advice I have, this bill is probably unconstitutional and highly susceptible to constitutional challenge.

Dr A.D. Buti: Tell us why.

Mr A.P. JACOB: I will; if you can let me get through more than a small handful of sentences, I will. I have the advice here, member for Armadale. We do not support this bill because it is unaligned; we do not support this bill because it is unnecessary; and we do not support this bill because it is, in all likelihood, unconstitutional and subject to challenge. I will get through each and every one of those points as I have an opportunity to do so.

With regard to the merits of a container deposit scheme, we agree with the points the opposition is making. In fact, we welcome its agreement with the decision we have made. It is easy to stand on that side and grandstand, but the opposition never did anything from 2001 to 2008. We have actively worked on this through the Council of Australian Governments process, we have made a government decision and we are rolling it out.

If we look back at how this has been rolled out, in 2016, shortly after—in fact, I think the day after—the Liberal–National government announced its government decision, this bill was introduced as a private member's bill, and it mirrors the bill introduced by Hon Eric Ripper back in 2011. The opposition had let that bill lapse from the notice paper and the Liberal–National government has now announced that we are going to implement a scheme.

As I said, the bill put forward by the opposition is not required to implement a container deposit scheme. It is a proposal for —

Ms R. Saffioti: Well, do it!

Mr A.P. JACOB: We already are. Thanks for the interjection.

It is a proposal for unnecessary red tape brought on by the opposition. It is a convoluted scheme that does not mirror what is done in any other state, so it is untried and untested. We will do this and we will do it properly, as we have with everything else in the environment portfolio. Just as we have ticked off and progressed every one of our election commitments progressively over three and a half years, we will meet this commitment as well.

Mr P.B. Watson: You're going down as the worst environment minister ever.

Mr A.P. JACOB: I do not think so, sunshine.

Several members interjected.

The ACTING SPEAKER: Members!

Mr A.P. JACOB: All right. Members should look at the list of what we took to 2008 and 2013. I can give members a list of what this government has managed to achieve in the environment portfolio, from Hon Donna Faragher through to Hon Bill Marmion and now into my tenure and under the leadership of the Premier, and we have overshot in many, many of those areas.

The experience of other jurisdictions—Northern Territory is the most relevant—has shown the importance of a planned approach to legislative development and policy, not rushing in a private member's bill after being caught flat-footed and embarrassed because the government had made an announcement and the opposition had not even talked about the issue in this place since 2013, and so a photocopy of another bill quickly appears. It has shown the importance of a planned approach to policy and legislative development. There are a range of potential legal issues around the introduction of a container deposit scheme including, very importantly, constitutional validity—I will get to that in a second; mutual recognition; and competing concerns.

The legal issues for a container deposit scheme depend on the design of the scheme. State or territory bills that impose a levy, as the member for Gosnells' bill does under clause 6, are most likely to be susceptible to a challenge pursuant to section 90 of the Constitution. Section 90, "Exclusive power over customs, excise, and bounties", states, in part —

> On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

The Northern Territory and South Australian legislation does not impose a levy of the type proposed under the Container Deposit and Recovery Scheme Bill 2016, introduced by the member for Gosnells. The relevant clause, clause 6, states —

> **6. Producer or importer of beverage containers liable to pay beverage container environmental levy**
>
> (1) A person who produces a beverage container in Western Australia, or who imports a beverage container into Western Australia, for the purpose of sale within Western Australia is liable to pay a levy (the ***beverage container environmental levy***) for each such beverage container.
>
> (2) Subsection (1) does not apply to a person to the extent to which the person is exempt from the subsection under section 16.

I compare that with a draft bill by the former Victorian government, the Environmental Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011; I have a copy of the relevant clause of that bill. Clause 52D states —

> Unless an exemption granted under section 52N applies, a person who imports a beverage container into Victoria for the purpose of sale within Victoria or produces a beverage container in Victoria for the purpose of sale within Victoria is liable to pay a beverage container environmental levy payable for each beverage container in accordance with section 52F.

The wording is essentially identical, but expressed in a slightly different format. The Victorian Government Solicitor's Office on 22 June 2011 was of the view that if that bill, including that clause, were to be passed by the state Parliament, if challenged, it would be held by a court to be constitutionally invalid and in breach of section 90 of the Constitution.

Those are the clauses I am referring to, member for Armadale. I believe that advice may be available online, and that is one of the reasons we will not be supporting this bill.

Dr A.D. Buti: Will you take an interjection?

Mr A.P. JACOB: Yes.

Dr A.D. Buti: On that constitutional aspect, when it went to the High Court, it was on the issue of whether it was a recyclable or a reusable container. That was the reason for the Castlemaine High Court decision. Where in clause 6 of our bill are we differentiating between re-usable or recyclable?

Mr A.P. JACOB: I am not referring to the Northern Territory challenge.

Dr A.D. Buti: I am talking about the Castlemaine case in South Australia.

Mr A.P. JACOB: I am not pretending to be a lawyer, but this is the advice —

Several members interjected.

Mr A.P. JACOB: All right.

Dr A.D. Buti: That was tested on the basis of the different levy that was imposed, whether it was re-usable or recyclable. Now, where in our bill—you quoted clause 6—do we have a different levy for re-usable vis-a-vis recyclable?

Mr A.P. JACOB: What I am quoting —

Ms R. Saffioti: I think he's got you.

Mr A.P. JACOB: I do not think so. I am quoting the advice from the Victorian Government Solicitor's Office on the constitutionality of the Victorian law. Specifically, the equivalent of the State Solicitor's Office in Victoria found that that bill was highly likely to be successfully challenged in the High Court under section 90 of the Constitution.

Dr A.D. Buti: But why?

Mr A.P. JACOB: It is extensive advice and I would be very happy to provide the member with a copy. He is more than welcome to argue it.

Dr A.D. Buti: But, minister, I am asking you a question.

Mr A.P. JACOB: I am more than happy to provide the member with a copy of that advice.

Dr A.D. Buti: But, minister —

Mr A.P. JACOB: I have only an hour; the member has had his chance.

Dr A.D. Buti: But, minister, you raised the constitutionality. I asked you a question and you —

Mr A.P. JACOB: I will provide the advice to the member. In any event, that is one of the three reasons. We oppose this bill, because it is unaligned. We have always said that the sensible approach, the approach that will be most welcome by the community, is a uniform approach across the commonwealth, an approach that is not liable to be challenged, hence the potential for it to be unconstitutional. The third point is that it is unnecessary, on the advice I have. They are the three very solid reasons. Any one of those three reasons on their own would be a good reason to oppose this bill, but when we combine all three, it shows that the opposition has just rushed in legislation. It has just photocopied something that was lying on the back shelf, from Hon Eric Ripper. I will pass on the advice to the member and he can pick it apart if he wants.

Several members interjected.

Mr A.P. JACOB: He can have a crack at it, but he still has to answer the other two points as well. The opposition rushed a bill into this place. It found a bill on a dusty shelf out the back, pulled it out, crossed out "2011", wrote on it "2016" and quickly read it in. The government announced its decision to do this; it caught the opposition flatfooted and the opposition is embarrassed that the Liberal–National government is doing it.

Mr J.R. Quigley interjected.

Mr A.P. JACOB: Whatever! I know I am beating members opposite when they try to change the subject.

Mr J.R. Quigley interjected.

The ACTING SPEAKER (Mr P. Abetz): Member for Butler, I am going to call you for the second time.

Mr A.P. JACOB: I know I have got them when they try to change the subject and throw up other things.

The Northern Territory container deposit scheme was challenged in the Federal Court by Coca-Cola Amatil, Schweppes Australia and Lion Nathan under the Mutual Recognition Act 1992. The Mutual Recognition Act gives effect to mutual recognition principles adopted by commonwealth, state and territory governments of Australia relating to the sale of goods. In response to the member for Fremantle's query, the Mutual Recognition Act applies to ensure that a good that can be sold legally in one state may be imported and sold legally in another despite the regulatory standards that may be in place in the different states. In 2013, the Northern Territory received an exemption from the Mutual Recognition Act 1992 for its container deposit scheme. I am not trying to claim that what tripped up the Northern Territory proposal when it first brought it out is what would apply to this legislation, but it shows how quickly these measures can be derailed if they are not thought through and done carefully. That is how the government will do it. It will do it properly and professionally. It will not quickly find the most recent draft of a private member's bill, dust it off, cross out the date and write today's date on it, and whack it in this place within 24 hours. That is not how it is done. I understand that is how the opposition does it. No doubt that is probably what Labor did in government too, but that is not how the Liberal Party does it. Carefully designing legislative approaches is the key to minimising the likelihood of timely and costly legal challenges, as we saw in the Northern Territory. The effective and sensible implementation of a container deposit scheme is also essential to maintaining community confidence, because there are groups that will push back against this. I agree it has broad community support, but there are groups that will push back against it, and that is why the legislation cannot be rushed and it has to be done methodically and sensibly.

Mr P.B. Watson interjected.

Mr A.P. JACOB: What a silly interjection!

Doing it that way does not involve a long time line. We seek to not only do it that way but also benefit from the work other states are doing. We have already had very productive discussions with New South Wales. We are fortunate that in many ways other states have used their resources to go a fair way down the road of implementing this. The closer we can align our legislation to theirs, the more effective our legislation will be and the less likely it will be challenged, because we will be doing exactly what New South Wales, the ACT and Queensland have done. Also, we can pool resources and most effectively implement what the Western Australian community have been calling for for a long time—that is, a container deposit scheme.

As I also said, we are keen to ensure that not only the legislation is aligned, but also a standalone bill is not necessary, depending on the final design of the container deposit scheme and the regulations under the Waste Avoidance and Resource Recovery Act 2007. It is possible that a small amendment to the Waste Avoidance and Resource Recovery Act will be required, but it is highly unlikely that standalone legislation will be required.

South Australia and the Northern Territory are currently the only Australian jurisdictions with a container deposit scheme. As mentioned earlier, South Australia introduced its scheme in 1977 and the Northern Territory's scheme commenced on 3 January 2012. The commitment to a container deposit scheme in Western Australia, which will start at the same time as Queensland and ACT—I am not certain about that—will leave Tasmania and Victoria as the holdouts, if you like. The Victorian Liberal government had a commitment to a container deposit scheme. It was actually through its work on a CDS that we became aware of the Victorian Government Solicitor's Office advice; it did extensive work on that. The Victorian Labor government opposes a container deposit scheme. In Victoria, a CDS is a Liberal Party policy; the Liberal Party supports it and it is something it is working towards. The Victorian Labor minister and government are holding out against a container deposit scheme. I hope the Victorian government changes its mind and supports it. Similarly, I hope that the Liberal government in Tasmania will also support a container deposit scheme.

Dr A.D. Buti: While you take a drink, will you take an interjection?

Mr A.P. JACOB: Perhaps I will, yes.

Dr A.D. Buti: A couple of things: will you provide a copy of the Solicitor-General's report from Victoria?

Mr A.P. JACOB: Yes.

Dr A.D. Buti: I am asking a question here. You mentioned the constitutionality. The whole issue is that section 92, about free trade across boundaries. What the High Court said in that case is that if there is a legitimate object that is allowable, but where the High Court pinned it on, was the South Australian scheme was going to impose a different levy on whether it was recyclable or re-usable; in other words, if you could refill the bottle vis-a-vis if you could not. I honestly do not see in our scheme where we are proposing a different levy between re-usable and recyclable, so where is the constitutional problem with our scheme?

Mr A.P. JACOB: I am comparing the clauses, which are not written identically but are essentially the same. When I provide that advice, the member will see that proposed section 52D of the Victorian proposal and clause 6 of the opposition's bill are essentially the same, although there is some slight flexibility in the wording. Essentially they say the same thing. The advice the Victorian government received is that if its bill was passed by state Parliament and challenged, it could be held by a court to be constitutionally invalid. I am not saying with any degree of certainty that it would be. I have received advice that states that it is likely there would be a constitutional challenge to it. If that was a risk, why would we bother? It is unnecessary to pursue standalone legislation. I do not support this legislation on the basis that it is unaligned with other states. We have been very consistent in our message—that is, we seek to align our legislation with other states and how they will do it. This bill does not include any key features proposed in the New South Wales model. New South Wales has a bill that is currently out for draft consultation. The advice I have is that because of the Waste Avoidance and Resource Recovery Act, WA is not likely to need standalone legislation in any event. It is not just on that point that I oppose the bill, but I make that point. It is all the others points in concert that give us good grounds to not support this bill, member for Armadale.

Having made the government decision to pursue a container deposit scheme, I discovered very quickly that these types of schemes are extraordinarily complex, and a range of issues came up that we had not even considered previously. A good example of that is that within an hour or two of announcing the scheme, somebody asked me how crushed cans could be used in a reverse-vending machine reading barcodes. How were we going to design the scheme for people seeking to recycle aluminium cans? Members would have seen printed on aluminium cans now that people can get 10c in South Australia and the Northern Territory. How would our scheme that relied on a barcode allow people to crush cans for the obvious storage benefits? That is one very small example of the complexities that suddenly emerge when governments make the final decision to implement a container deposit scheme. We are working through those complexities now. That example reinforces the value of consulting and working with fellow jurisdictions. We have the opportunity right now to work with the Queensland government; the New South Wales government, which is implementing its own scheme; local government; industry; and

other stakeholders to not only ensure national consistency, but also workability. We have been speaking to many stakeholders already, and we will have a working group to sit around this. On 17 August, the government announced that a container deposit scheme for drink bottles and cans would be introduced by mid-2018.

Members mentioned the Auditor General's report. If I have time, I will touch on that. But I welcome the Auditor General's support for the government's decision to pursue a container deposit scheme.

Mr P.B. Watson: No, that was our member's one.

Mr A.P. JACOB: I do not think so because the Auditor General's comment refers to implementation of the scheme by mid-2018. I welcome support for this government's decision. I welcome the support of members opposite for a container deposit scheme. Will the member for Gosnells' bill be implemented in 2018, member for Albany? What is the time line on the member for Gosnells' bill?

Mr P.B. Watson: We're not in government; we can't bring it in.

Mr A.P. JACOB: If the member is going to make interjections, he should read what the Auditor General stated. The Auditor General's comment is that he is supportive of the implementation of a scheme by mid-2018. I welcome that support as well. I read that to mean that the Auditor General's office got a bit confused about the bill, and took the opposition member's bill to be a government bill, which it is not. But, in a general sense, the Auditor General supports a container deposit scheme. Indeed, the Western Australian community more broadly supports a container deposit scheme. As I said, we have to work through the finer details with stakeholders and we will develop a contemporary design that is the best fit for all Western Australians and conforms as closely as possible to what is happening in the rest of the country, particularly in the states with larger populations. This scheme will provide a 10c refund on eligible beverage containers. That will include soft drink containers, small bottled waters, small flavoured milk drinks, sports drinks and spirit-based mixed drinks. People will be able to get a 10c refund from reverse-vending machines and collection depots available across Western Australia. As I said, we will use the waste avoidance and resource recovery account for some of the start-up costs, so there will be no impact on the consolidated fund.

Dr A.D. Buti: Under your scheme, do you need an exemption from the mutual recognition committee?

Mr A.P. JACOB: We will find out as we go forward.

Dr A.D. Buti: You haven't actually prepared. You've thought about our constitutionality, but you don't even know what you require under yours.

Mr A.P. JACOB: My point is that your bill is a bit of a stunt.

Mr P.B. Watson interjected.

The ACTING SPEAKER (Mr P. Abetz): Member for Albany, settle down!

Mr A.P. JACOB: It is a valid interjection. It is a really good example of this government's approach. We have made the decision and we will methodically work through all the issues. If that issue impacts on this scheme, it will have to be worked through. We will work through it not only in a methodical way, but in partnership with New South Wales and Queensland. That is the right way to go. That has been this government's consistent position since day one. Members opposite are rushing around trying to claim some level of credibility, but they never introduced a container deposit scheme when they were in government. We have had a consistent and considered position as a government, and we are methodically working through the issues to make sure that this scheme is delivered properly. When this scheme is delivered, it will be delivered properly.

Mr P.B. Watson: Eight years and we still haven't got it.

Mr A.P. JACOB: As in very many areas, the member for Albany can throw that comment out as much as he wants, but the Labor Party had this policy from 2001 to 2008 and it never ever progressed it. When the Liberal–National government makes a decision —

Mr P.B. Watson: You voted against it.

Mr A.P. JACOB: Members opposite voted against the Biodiversity Conservation Bill even though it was Labor Party policy. I tell you what, when we are in government, we deliver. When members opposite were in government, it was their policy, too, but they never did anything. They never got it through cabinet and certainly never got a draft bill into this place. The ultimate hypocrisy of the environment portfolio is that they voted against the Biodiversity Conservation Bill in this place. It does not matter whether we support the legislation. When we are in government, we work through our commitments in a sensible and methodical way and we deliver them.

This scheme will also meet a strong community desire for a container deposit scheme and complement our existing recycling culture. Certainly, the cost of living is an issue that has been raised, and there may be some valid concerns about any cost-of-living impost with a container deposit scheme.

Dr A.D. Buti: It hasn't proven to be the case in South Australia.

Mr A.P. JACOB: I make the point that given the larger states are moving towards a container deposit scheme, the advice I have, and I would assume it is a reality, is that Western Australia will have that 10c impost built into the cost structure now anyway. This means that most Western Australians will probably be paying that 10c in the cost of their beverage containers. I do not think anyone thinks that we will get a 10c discount on what a bottle of Coke will cost on the east coast, but scouting groups, charity groups and community groups will be able to claim that 10c refund. I am tackling that cost-of-living argument that others members will throw out there. I am advised that 10c will be built into our cost structure now in any event, so providing Western Australian citizens with the opportunity to collect on the rebate makes perfect sense.

This scheme will also complement the state government's other waste management and littering reforms, such as: increases to the landfill levy; raising of fines for littering; introduction of the offence of illegal dumping; the Better Bins program, which is working very well to improve local government waste collection systems; and our more recent program to make better use of recycled construction and demolition waste. We will do this, and we welcome the support of members opposite, but we will ensure that as this scheme is delivered, it is delivered properly.

In the four or so minutes that I have left, I will address some of the comments of members opposite. I welcomed with interest the member for Willagee's comments about mattresses, how important mattress recycling is and how great it is to see these little businesses tackling this big problem in the waste stream. I could not agree with him more, but I remember one of my first questions in this place in 2013 was after I had announced the commencement of the subsidy program for the recycling of mattresses, and members opposite mocked me the whole way through my answer to the question. I remember it very well. We know when our policy measures are starting to be effective because members opposite do not like to talk about the fact that they mocked us when we introduced them. Members opposite are certainly welcoming our policies as good initiatives now; unfortunately, they did not give us credit for them.

Mr P.B. Watson: Geez, you've got an ego.

Mr A.P. JACOB: Whatever!

The ACTING SPEAKER: Member for Albany!

Mr P.B. Watson interjected.

Mr A.P. JACOB: Please, member for Albany, I do not have long.

I also agree with the member for Willagee that waste reform is about hard economics. Comments were made about the Auditor General's report, and I will touch on that very briefly. I might get an opportunity later to refer to it, but it does not really pertain particularly to this legislation. The Auditor General's report broadly found that the government's waste targets are good and we are making good progress towards meeting those waste targets. It also found that the programs that we have put in place to meet those targets are good, such as Better Bins, our C and D program and the container deposit scheme. The report's principal finding is that we are not getting there as quickly as we would like to. I accept that. We are not getting there as quickly as we would like to, but we are coming from a long way behind and trying to play catch-up. The member for Mirrabooka nailed it with the City of Stirling issue, which put us back earlier in the piece. But now that the City of Stirling has adopted the three-bin system, we should see some faster increases in those waste targets. I think the Auditor General also found that those waste targets were broadly good targets. I admit and I accept that we can do better. We are always going to be in a place in which we can do better. Until we have zero waste, we can do better. We have a responsibility to do better. The Auditor General commented on the simplicity of communication. That is what I love about a container deposit scheme. Not only does it do wonders for litter and help with recycling, but a simple message that people understand clearly is contained within it.

In my closing comments I will mention that I had the opportunity to present a Waste Authority Infinity Award to the Mindarie Regional Council this morning for its no-glass campaign. Mindarie Regional Council distributed 170 000 bin lid stickers to residents in the Cities of Wanneroo and Joondalup. The Minister for Local Government probably got one on his bin and I got one on my bin. The sticker has a very simple message that the council's waste and recycling process requires that no glass—even broken glass and fluorescent tube glass—goes into the green-lid bins. That program, which has been running for just over a year, has seen more than a halving of the contamination of the council's composting streams. I had an opportunity to see that this morning. It is such a simple thing. One bin lid sticker has seen more than a 50 per cent reduction in contamination in those bins. It is a great example of a simple message, as is a container deposit scheme.

Sitting suspended from 6.00 to 7.00 pm

Mr A.P. JACOB: I return to my comments made before we had our dinner break. As was discussed earlier, it is good to see members opposite supporting this government's initiative to bring in a container deposit scheme; I welcome that. I want to point out, for all the interjections that I received, this government made a decision in August this year and we are in full swing to progress the introduction of a container deposit scheme by 2018. This is not an aspiration; this is a decision that has been taken by the government and work is underway. We have the start date; it will be aligned with Queensland that is itself aligning with New South Wales and the Australian Capital Territory.

Several members interjected.

The ACTING SPEAKER (Mr I.M. Britza): Okay!

Mr A.P. JACOB: Given that my colleague the Minister for Transport is here, I will acknowledge the work that he did in this space and in continuing to advocate for a uniform national scheme—the work that he did in supporting a scheme such as this. In fact, I will quote the Minister for Transport talking about members opposite, who lost government in 2008. They are very interesting comments, Minister for Transport. He pointed out —

> In 2005, the then Minister for the Environment, Judy Edwards, called for a container deposit scheme and said that refundable container deposits clearly work and that she supported phasing in such a system …

In April 2007, a group was set up to explore this issue. It reported in September 2008, some 18 months later. The Labor Party said it would support it two years earlier, in 2005. It worked on a committee from 2005 to 2007, which brought down a recommendation to start a scheme. However, from 2007 to September 2008, the Labor Party could never even make a decision. We have made the decision. We have the start date; we are bringing it in. It is good to see that members opposite are supportive of us doing that, but we will not be supporting the bill because it is unaligned, unnecessary and likely to be found unconstitutional. We do not support it because it does not align with what the other states are doing. It does not even align with South Australia, let alone the Northern Territory scheme, and it certainly does not align with the New South Wales, Queensland and ACT model. As my predecessor outlined, we seek to have a national approach. The second reason that we do not support it is that the bill is unnecessary. We are advised that standalone legislation is not even required. The decision has been made and if any amendments are required to the Waste Avoidance and Resource Recovery Act 2007 we will bring them back to this house after we are elected in March next year. The third reason is that the advice I have received from the Victorian Government Solicitor's Office is that this bill is liable to be found to be unconstitutional.

For those three reasons, we do not support this bill. We support the support that has been shown by members opposite for a container deposit scheme. We welcome their support for the Liberal–National government's initiative and decision to bring in a container deposit scheme, and although we thank them for their bill for those three reasons, we do not support doing this in a rushed manner. We will do this in a proper manner and we will deliver it.

MR P. ABETZ (Southern River) [7.04 pm]: I rise to contribute a little to the debate on the Container Deposit and Recovery Scheme Bill 2016. I am certainly old enough to remember the threepence we used to get for Fanta and Coca-Cola bottles. When we lived in Blackmans Bay we could pick them up on the beach on a Saturday or Sunday afternoon and go to the shop and return them to buy a few lollies and things at the local shop. In the early 1970s, it changed to plastic bottles. I still recall the change when Coca-Cola went to the plastic bottles in Tasmania. The bottling plant was in Hobart, and the big semitrailers would run up to the north and north west, and on the way back, they would bring the empties back to the bottling plant. After the switch to plastic bottles, trucks had no load to bring back, so they were looking for other freight. Sometimes switching to different materials reduces the cost to the consumer in a significant way. One of the other issues with glass bottles was that, if they had been lying on the roadside for a long time, mould would sometimes form in the bottle, and the high-pressure cleaning did not remove it properly. Every now and again, we had the problem of a contaminated bottle of Coke, beer or whatever. The move to plastic bottles reduced the freight costs because each item weighs less and uses less fossil fuel for transport, and it also improved the food safety issue.

The container deposit scheme is a very positive move. Some people ask whether it will affect the amount of recycling that is done through the yellow-top bins. In our electorate, we have yellow-top bins; we have only a two-bin system at present. The problem with the yellow-top bins is that so many people put the wrong materials into them and contaminate it so much that a certain percentage of what is collected by the recycling trucks ends up going to landfill. The beauty of the container deposit scheme is that the quality of the raw material delivered to the recycling plant will be very clean. It will not be contaminated by people who put dirty nappies in with the recycled bottles, or put in garden waste or a drum of oil, which goes all over the other material and then all has to go to landfill. The amount of litter in the form of drink containers on the sides of highways in Western Australia, compared with that of South Australia, shows the difference a container deposit scheme makes in reducing litter.

People on very low incomes who are struggling, kids who want to earn some pocket money and charities will have a means of generating funds through recycling under the container deposit scheme. I have seen reverse vending machines in Europe. The empty bottles are placed back into the machine—glass in one slot, plastic in another and polyethylene terephthalate in yet another—and the machine prints out a little ticket. A shopper can then go into the supermarket and receive that amount of discount on their grocery bill. It is a normal thing in the Netherlands and Germany for people to take the empties with them in shopping bag when they go shopping and, before entering the supermarket, just pop them into the machine. It is one of the things that people do.

One of the issues we face in Western Australia is distance, and the issue of carting recyclable glass long distances. The fact that we no longer have a glass manufacturing plant in Western Australia means that glass placed in recycling bins is a very low-value item. There are still a few things that are sold in glass bottles, but I am sure that the biggest part of the container deposit scheme will be plastic and PET bottles and other drink containers.

I want to briefly mention one of the things that we need to think about when we talk about recycling: what energy consumption is involved in recycling our materials? When I was in Europe in 2014, I had the opportunity to visit a waste-to-energy plant in Saint-Ouen in north west Paris that had already been operating for some 40 years. How that works is very interesting. It has a hierarchy of trying to reduce waste that is very similar to our own. It basically works on the idea of prevention, firstly—in other words, trying to prevent waste from happening—re-use is second, then recycling, then energy, then matter recovery and only the balance goes to landfill. I think that is very similar to the hierarchy we have adopted in Western Australia.

Mr W.J. Johnston: How come Western Australia's landfill rate is 50 per cent higher than that in the other states?

Mr P. ABETZ: I think several issues are involved. One is that I think in Victoria, businesses go to building sites to collect building waste, but what tends to happen here is that leftover bricks, tiles and all that are scooped up with a bobcat and it goes into the back of a truck and to landfill. In Victoria, the tipping charges are so high that guys go around—obviously, with the builder's permission when the building is finished—to pick up all the bricks and things that are still usable and that massively reduces the tonnage that goes into landfill.

Mr W.J. Johnston: So does building and industrial waste cause the problem?

Mr P. ABETZ: Yes. There is a significant difference there. Plus, in our very regional areas in Western Australia, just about everything goes into landfill. The economics of distance become a bit of a burden, which I think is also part of it. The other part is getting people to think differently. Builders will get a bobcat to put whole pallets of bricks into a truck to go to the tip. Something in the waste not, want not way that I was brought up absolutely grates at that situation. When I demolished a brick wall in the house that we bought in Kingsley when we lived there, I could not get myself to put all the bricks into a skip bin. I actually chipped off all the mortar and took them to a brick recycling place. I got only about $150 for them and it took me quite a few days to chip off all the mortar, but I could not justify to myself those perfectly good bricks going to landfill. I thought it would be good exercise for me to chip off the mortar, so that is what I did.

Another thing that I want to mention about the waste-to-energy plants is that they were built on the outskirts of Paris many years ago, but, as Paris has spread, it caught up with them. At the one I visited, they were building residential apartments right next door. The operators told me that the scrubbing of the exhaust gases from the plant were actually cleaner than at street level because of car fumes. The technology has progressed to such an extent that the cleanliness of waste-to-energy plants is quite amazing and no longer an environmental issue. I think for everything that goes —

Ms S.F. McGurk: Not everyone agrees with that.

Mr P. ABETZ: I know that not everyone agrees with it, but from the analysis for toxins and things, the cleanliness of the air coming out is actually lower in the exhaust than what goes in.

Mr W.J. Johnston: That's not necessarily true. It depends on the content of the waste stream. One of the problems that they had in Eastern Creek was that, unknown to anybody, 50 car batteries a week were actually being dumped in the waste stream. They had to put in extra manual sorting to get rid of the car batteries.

Mr P. ABETZ: Right, yes.

Mr W.J. Johnston: If car batteries go in, there are the devil's own troubles.

Mr P. ABETZ: There certainly are some issues there. I am not sure about the situation in France, but I know that in Stuttgart, Germany, where there is a waste-to-energy plant, they are incredibly strict about policing what people put in the different bins. They have a three-bin system. When I stayed with my cousin, I offered to take out the rubbish, and he told me to make sure that I put it in the right bin because they do spot checks. They flick a canvas on the footpath and tip out the bin and if people have put something in the wrong bin, they get a €200 fine. Most people need to get only one or two fines before they realise they have to put the rubbish in the right bin. One bin is exclusively for paper and cardboard, one is for putrescible waste and the other is for plastics, tins and various other bits.

Mr W.J. Johnston: In Japan, they have four kerbside collections a week and they do the same thing. Waste to energy using incineration can be done only if the waste stream has already been separated before it arrives there, which does not happen in Western Australia. It is just the fact.

Mr A.P. Jacob: Hence why we are commencing the Better Bins program. That has been the platform. Another point, member for Southern River, is that technology is catching up quickly and you will find that camera systems are already starting to come into WA, so we will be able to monitor waste streams as they are picked up at the collection point and they will be able to recognise any contaminants.

Mr W.J. Johnston: So what happens if there is a bin with the wrong waste in it at the kerbside?

Mr A.P. Jacob: That is what I am saying.

Mr W.J. Johnston: I know, but what happens to the bin?

Mr P. ABETZ: They put a sticker on it. They will not collect it, and that is already happening now.

Mr A.P. Jacob: And also the contaminant has been picked up.

Mr W.J. Johnston: But the point I am making is that the waste is still sitting there. What happens to it next?

Mr A.P. Jacob: It has to be sorted.

Mr W.J. Johnston: Who sorts it?

The ACTING SPEAKER: Members, you can take your difference of opinion outside.

Mr P. ABETZ: We were having a very interesting discussion, but thank you, Mr Acting Speaker, for getting us back on track.

What I found particularly interesting with the waste-to-energy arrangement is that instead of having what we call kerbside collections, they have depots where people can drop that material so that the scrap metal, wood and old furniture gets sorted. It all goes into the waste-to-energy plant, as does what we call putrescible waste. The beauty of these plants is that they are within the city, which means that the garbage trucks do not have to travel very far. One of the things that we need to think about is the amount of fuel and CO_2 emissions that would be produced if there were three or four garbage trucks going by instead of just one. That needs a little bit of thinking through to determine how best we can do it.

A container deposit scheme will allow people to put bottles in the ideal location for the optimum use of that resource. That would create a very clean stream of recyclable material for industry. We need to strive for a reduction in waste and the re-use of waste as much as possible. I think kerbside collections are great, because people put their stuff out and other people drive around and think, "I could use that" and then away they go. I think most people are very happy for things to be re-used. The Sunday before last there was a nice aviary outside a house around the corner from my house. It was a bit old, but my son has birds and I know he was looking for a bigger aviary, so I rang him and asked him whether he was interested in the aviary on the kerbside. I went to the house and knocked on the door and asked whether it was okay for us to take it and they said, "Sure; no worries", so we took it away. That is re-use at its very best. I think the minister has covered a number of issues about the difficulties with the bill. In principle, I certainly support a container deposit scheme, but I am unable to support the bill as it stands.

DR A.D. BUTI (Armadale) [7.20 pm]: It is good that the member for Southern River basically seems to support our Container Deposit and Recovery Scheme Bill 2016, which of course any sensible person would. I want to address a few issues that were raised before the break by the Minister for Environment. One was this idea that we need national schemes. This government seems to have an interesting view —

Mr W.J. Johnston: When Norman Moore disappears, we see what happens!

Dr A.D. BUTI: That is right. The government has a very inconsistent view when it comes to this. There was not a concern with a national scheme when it came to the National Disability Insurance Scheme. The Premier said, "We will have our own scheme. We will not be told by Canberra." The government was not concerned about a national scheme when it came to the Gonski funding—"We will not be told by Canberra; we will not be told by any state. We will have our own scheme." The government was not concerned about a national scheme when former Prime Minister Kevin Rudd tried to implement health reforms early in his prime ministership. The Premier was always saying, "We are different; we will do it our way." Back in 2011, the former Minister for Environment who is sitting in the chamber, Hon Bill Marmion, opposed the introduction by Labor of a container deposit scheme. He said that the government would wait for the national consultation regulation impact statement to be completed by the end of 2011 before taking action. Was that statement concluded?

Mr A.P. Jacob: Yes.

Dr A.D. BUTI: Why did the government not take action at the end of 2011? The former Minister for Environment stated that the government would oppose Labor's bill in 2011 because it was going to wait for the national consultation regulation impact statement. That was completed and the government sat on its hands. In August

this year, the current minister finally decided that we would have a scheme that our spokesperson for the environment on this side of the chamber had long been proposing. To understand the numbers, it is difficult to get things passed in opposition if there is not the support of the government. That is why we have not been able to achieve things that we wanted to—because the government has blocked them. The reason the government has blocked them is that we instigated them. It is interesting that tonight the minister was talking about a national scheme. Did the minister not say that efforts to pursue a national scheme had fallen by the wayside, but that Western Australian policy would seek to align itself with changes in Queensland and New South Wales? In other words, in the end the government was being practical, realising that there would be no national scheme, but it would not go ahead until 2018. Why would the government not have agreed to the Labor proposal in 2011? For one reason only —

Ms M.M. Quirk: Because they didn't think of it.

Dr A.D. BUTI: Exactly right, member for Girrawheen. That has always been the government's view. The classic example of that is the attitude of the Minister for Police. The government will not agree to anything that we seek to implement. It is an automatic position that the government has. Anything that Labor seeks to introduce, it will oppose. It does not matter about its merits or how great it is. The government copies Labor and then blames us for not implementing schemes or acts when we are in opposition. I will say one thing: if the current spokesperson for the environment on this side of the chamber, the member for Gosnells, had been minister after the 2013 election, this scheme would have easily been in place within 12 months. The minister then —

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister!

Point of Order

Mr W.J. JOHNSTON: It is hard to hear my friend the member for Armadale over the drone from the minister. I wonder whether you could bring him to order.

The ACTING SPEAKER (**Mr I.M. Britza)**: Minister, the member for Armadale has the floor and I will follow him. If he does not want interjections, I will protect him.

Debate Resumed

Dr A.D. BUTI: In the minister's contribution to the debate he appeared to have an understanding of constitutional law and raised the possibility that this bill is unconstitutional and might be subject to challenge. Many acts could be challenged, but that does not mean we do not proceed. The issue is whether the challenge is successful, not that some people may seek to challenge it. Often, vested interests will seek to challenge legislation. Of course, the mother of all challenges to state legislation was to Richard Court's native title legislation back in 1997, when the High Court decided 7–0 against it. It is a bit rich for the conservatives to talk about constitutional challenges when, in that High Court challenge, even Justice Dawson, who was in dissent on the Mabo decision, found unconstitutional the appalling legislation that tried to take away the native title rights of Indigenous people. The Labor Party does not need a lecture from the conservatives on what is constitutional or not constitutional.

The minister mentioned that he had legal advice from the Victorian Government Solicitor's Office, which he promised he would provide to me. But when I put to the minister the High Court challenge to the South Australian scheme, he was not prepared to engage in debate on that. There is a clear difference between what has been proposed in this bill and the South Australian legislation. The minister was not prepared to elaborate on that constitutional issue, so it might be appropriate if I provide some information for the minister on this. I will not take interjections, but if he wishes to respond he may interject at the end. The minister referred to section 92 of the Constitution.

Mr A.P. Jacob: No, I referred to section 90, which reads —

> On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

Dr A.D. BUTI: The Container Deposit and Recovery Scheme Bill is not seeking to do that.

Mr A.P. Jacob: Yes, it is.

Dr A.D. BUTI: No, it is not. How is it doing that?

Several members interjected.

Dr A.D. BUTI: It is interesting that the minister keeps referring to a document that he has in his hand from the Victorian Government Solicitor's Office, which I assume is not referring to Labor's bill. Is that true, minister?

Mr A.P. Jacob: It refers to the Victorian bill, but it refers to the particular clause in question, which is almost identical to clause 6 of this bill. It refers to section 52D of the Victorian act, which is almost a carbon copy of clause 6.

Dr A.D. BUTI: The constitutional challenge to that container deposit scheme relates to section 92 of the Australian Constitution on the free movement of commerce and trade across state borders. That has been constitutional challenge to the container deposit scheme, and that is why governments have sought a national scheme. The issue is whether it would discriminate against interstate travel. In 1988, a High Court decision, Cole v Whitfield, brought in a new test for section 92. I will just go back to section 90. I do not have the advantage of the legal advice that the minister has in his hands, but it would be interesting to know why the South Australian, Queensland and New South Wales schemes, as they are now, have not fallen foul of section 90 of the Constitution. I presume the minister is saying that they have an exemption from the mutual recognition act. Is that right?

Mr A.P. Jacob: I think it's because in South Australia, the public authority doesn't receive the moneys because it's an industry-run scheme.

Dr A.D. BUTI: What about Queensland and New South Wales?

Mr A.P. Jacob: That's why we're working through it with them.

Dr A.D. BUTI: I will be interested to read that legal advice, but the constitutional challenges that have been successful in this area relate to section 92.

Mr A.P. Jacob: I am very happy to provide this advice. It relates to section 90, as I understand it, and your bill, as drafted, specifically creates this charge as a levy, as an excise, so that's why —

Mr W.J. Johnston: No, it doesn't.

Mr A.P. Jacob: Yes, it does.

Dr A.D. BUTI: It creates a deposit; it is a deposit scheme.

Mr W.J. Johnston: It's not an excise.

Dr A.D. BUTI: It is not. It has long been held that states cannot impose excises; that is understood. Is the minister saying that clause 6 of our bill creates an excise?

Mr A.P. Jacob: Yes, section 6.

Dr A.D. BUTI: Does he have legal advice of that opinion?

Mr A.P. Jacob: Well, the Victorian bill —

Dr A.D. BUTI: It is interesting that the minister comes into this chamber —

Mr A.P. Jacob: Do you want the answer or not?

Mr W.J. Johnston: The answer's yes or no.

Mr A.P. Jacob: Yes, so ask the question again.

Dr A.D. BUTI: Does the minister have legal advice that clause 6 of our bill violates section 90?

Mr A.P. Jacob: I never made out that I did. I have legal advice —

Several members interjected.

Dr A.D. BUTI: It is quite incredible.

Mr W.J. Johnston: What a joke! He's a joke!

The ACTING SPEAKER (Mr I.M. Britza): Member for Cannington, do not point! I am watching the member to see the clarification coming. We have got the point that it is a joke to you, but I want to know from the member for Armadale: are you still seeking that answer qualification?

Dr A.D. BUTI: I would like to continue with my question. Actually, no, I am not seeking a clarification. I am just going to explain why we have the situation we have here. We have seen a minister of the Crown come into the house stating that, in all likelihood, the bill before the house is going to be unconstitutional, but the advice he is relying on for that opinion is Victorian advice, rather than the advice of the State Solicitor's Office of Western Australia. He has not undertaken to seek legal advice from our own State Solicitor on a bill that is before this house.

Ms M.M. Quirk: Maybe he's doing a George Brandis!

Dr A.D. BUTI: That is what I was thinking, member for Girrawheen.

Ms M.M. Quirk: It wouldn't be the first time.

Dr A.D. BUTI: Yes, and maybe the Attorney General has said that he cannot seek advice from the State Solicitor unless it goes through his office!

It is quite incredible that a minister of the Crown has come into this house to make the argument that legislation before the house is unconstitutional based on legal advice provided by the Victorian Government Solicitor, who has never seen the bill! That is quite incredible. As the minister will be well aware, we do not look at clauses on their own; we look at clauses in the context of the totality of the legislation. Just because there may be something similar in another jurisdiction, it does not automatically mean that we can carry over advice relating to it.

It is always debatable in constitutional cases whether something is going to be held to be unconstitutional or not, but I would really like to see the evidence that clause 6 of the bill before our house is in violation of section 90 of the Constitution. With regard to section 92 of the Constitution, the only High Court case we have in which a container deposit scheme has been struck down is a case relating to a South Australian container deposit scheme.

The minister mentioned that he is aware that section 92 relates to free trade and commerce. The issue is about non-discrimination between states and the difference in the way that this was interpreted. In 1988, the High Court case Cole v Whitfield dealt with crayfish. A Tasmanian law stated that crayfish of a certain size were not able to be sold in Tasmania, which, on the face of it, meant that certain South Australian crayfish of a smaller size were not able to be sold in Tasmania. The High Court held that one can discriminate if it is for a non-protectionist object such as an environmental object. In that case, it was found that it was an environmental object, and, therefore, it was not in violation of section 92 of the Constitution. That was a new approach. It is not right to say that section 92 of the Constitution is an absolute freedom of interstate trade and commerce. One can actually discriminate if it is for a non-protectionist purpose. If there is a legitimate object such as the environment, and the measure in place is not seen to be disproportional, that will not be held unconstitutional. After Cole v Whitfield, a couple of other cases followed: Bath v Aston Holdings Pty Ltd, the Victorian case on tobacco tax that was struck down as unconstitutional; and then the Castlemaine Tooheys Ltd case, which was an interesting case that dealt with a container deposit scheme. Let us look at the facts of that case.

Back in 1975, South Australia provided for a mandatory 5c refundable deposit on beverage containers but exempted refillable beer bottles. The Bond Brewing Group, which brewed beer outside South Australia, sold its beer in South Australia in non-refillable bottles. The local brewers predominantly sold their beer in refillable bottles. As a result, there was a difference between how the scheme affected the interstate beer and how it affected the domestic South Australian beer. An amendment was later made to that initial scheme to increase the deposits offered in the scheme.

[Member's time extended.]

Dr A.D. BUTI: The initial deposit for refillable bottles was increased to 15c, and a 4c deposit was introduced for refillable bottles; that is, an 11c difference between refillable and non-refillable bottles. They came unstuck because of this difference in the deposit scheme between how much had been imposed on the refillable vis-a-vis fillable bottles. The High Court held that this was discriminatory to the extent that it did not justify the legitimate objects of seeking to protect the environment. In respect of that case, the High Court stated —

> In determining what is relevantly discriminatory in the context of s.92, we must take account of the fundamental consideration that, subject to the Constitution, the legislature of a State has power to enact legislation for the well-being of the people of that State. In that context, the freedom from discriminatory burdens of a protectionist kind postulated by s.92 does not deny to the legislature of a State power to enact legislation for the well-being of the people of that State unless the legislation is relevantly discriminatory. Accordingly, interstate trade, as well as intrastate trade, must submit to such regulation as may be necessary or appropriate and adapted either to the protection of the community from a real danger or threat to its welfare or to the enhancement of its welfare.

Of course, the environment was the issue.

When it looked at the facts of the Castlemaine case, the court stated —

> If we accept as we must that the legislature had rational and legitimate grounds for apprehending that the sale of beer in non-refillable bottles generates or contributes to the litter problem and decreases the State's finite energy resources, legislative measures which are appropriate and adapted to the resolution of those problems would be consistent with s 92 so long as any burden imposed on interstate trade was incidental and not disproportionate to their achievement. Accordingly, the validity of the 1986 legislation rests on the proposition that the legislative regime is appropriate and adapted to the protection of the environment in South Australia from the litter problem and to the conservation of the State's finite energy resources and that its impact on interstate trade is incidental and not disproportionate to the achievement of those objects.

However, after examining the legislation and its effect, the court found —

> … the measures adopted were not appropriate nor adapted to achieving their purpose. The discrimination against the interstate trade in non-refillable beer bottles carried on by the Bond Brewing Group in South Australia was not justified on either ground, namely, the control of litter or the

> conservation of energy. In terms of controlling litter, the object of the legislation was to encourage the return and collection of containers, and the 15 cent deposit for non-refillable beer bottles compared with the 4 cent deposit for refillable beer bottles was disproportionate in terms of encouraging the return of the former, given South Australia's admission that a 6 cent deposit for the first twelve months of the scheme and a 4 cent deposit thereafter was sufficient to ensure the return of non-refillable beer bottles. Nor was there any justification in the difference in the return system between non-refillable beer bottles, returns of which had to be accepted by retailers, and refillable beer bottles in respect of which no similar obligation existed. There was simply no connection at all between this form of discrimination and the object of controlling litter.
>
> As regards conserving South Australia's finite reserves of natural gas, the Court concluded that no significant saving was made by discouraging the use of non-refillable bottles by the Bond Brewing Group since all their bottles were manufactured outside South Australia.

The minister has referred to section 90 of the Constitution. It really rests on him to provide to the chamber the legal advice that shows that our scheme—the scheme in this bill introduced by the member for Gosnells—is unconstitutional or could seriously be challenged as being unconstitutional, rather than relying on the Victorian Government Solicitor's Office's advice on Victorian legislation.

Mr W.J. Johnston: That has nothing to do with this legislation.

Dr A.D. BUTI: That advice has nothing to do with this legislation. The minister mentioned that clause 6 in the bill before the house and the Victorian equivalent are essentially the same.

Mr A.P. Jacob: That's correct.

Dr A.D. BUTI: That is correct. What about the rest of Victoria's bill and our bill?

Mr A.P. Jacob: The reason that theirs was found to be liable for a challenge, and their advice —

Dr A.D. BUTI: It was not held to be liable. It would not be held to be liable based on advice.

Mr A.P. Jacob: The reason theirs was considered to have been likely to have been successfully challenged was because within their section 52D, which is almost a facsimile of this section 6, is the levy. The way the levy is phrased is considered to be a duty of excise. The advice goes through some quite extensive steps why they consider it to be constructed to be an excise. It is a mandatory extraction of moneys by statute because it is payable directly to a public authority—that is the other flaw in this bill—and also that it has been raised for a purpose that is in the public interest.

Dr A.D. BUTI: The member for Cannington just mentioned something that was pertinent. Would the member for Cannington repeat it so we can all hear it?

Mr W.J. Johnston: Sure. In the last Parliament you voted in favour of the waste levy. Do you remember that?

Mr A.P. Jacob: Yes, in the last Parliament, and in this Parliament.

Mr W.J. Johnston: The waste levy is a volume-based tax. There is a definition. If you look it up in the dictionary, you will see that a volume-based tax is called an excise. So, actually, the waste levy, unlike this one, is more likely to be subject to challenge in the High Court because this is not volume based.

Mr A.P. Jacob: They are two very different things —

Mr W.J. Johnston: No, it's just a fact.

Mr A.P. Jacob: — and Victoria has a waste levy as well.

Mr W.J. Johnston: It's just a fact.

Mr A.P. Jacob: So the context is exactly the same. Thanks for making my point for me. Victoria has a waste levy almost identical to ours. Another good example!

Several members interjected.

The ACTING SPEAKER (Mr I.M. Britza): Members! I do not like the word "fool"; I do not call anybody a fool. I am not asking you to withdraw it; I am just telling you that I do not use that word.

Mr P. Papalia: I am talking about in the context of what he is doing.

The ACTING SPEAKER: No, I am just telling you. The member for Armadale has the call.

Dr A.D. BUTI: Let us go back to some basic principles of constitutional law, minister. As the minister knows, we have a Constitution that is there to prohibit either commonwealth or state Parliaments from enacting certain legislation. The minister referred to section 90 in relation to excise, in that the states do not have the ability to impose excise duties. The minister has not been able to tell us why clause 6 of the Container Deposit and Recovery Scheme Bill 2016 runs contrary to or will fall foul of that section.

Mr A.P. Jacob: I did in my second reading speech. You were thinking of —

The ACTING SPEAKER: Minister, he has not actually asked you a question.

Dr A.D. BUTI: The minister did not explain why. He said that he had in his hand advice from the Victorian Government Solicitor's Office on the Victorian legislation. That is what the minister said. The minister did not actually explain why clause 6 of this bill is unconstitutional.

Mr A.P. Jacob: Member for Armadale, you have been looking at section 92 the whole time.

Dr A.D. BUTI: No; the minister did not do that.

Mr A.P. Jacob: I did.

Dr A.D. BUTI: If this bill were passed, which of course it will not be because the government never passes an opposition bill, and there was a constitutional challenge, how do we know what would happen? In 1998, the High Court, in Cole v Whitfield, actually changed the whole way it interpreted section 92. Maybe there will be a change in regard to section 90; maybe this could be held to be unconstitutional, but it could also be held to be constitutional. The minister has not provided anything at all that directly provides advice on the clause before us. The minister is referring to advice from another state on its legislation. That is a deplorable way for a minister of the Crown of Western Australia to talk about legislation before this house.

Mr A.P. Jacob: I'm sorry; did I ever pretend it was anything else? I was very clear. I said, "This is the Victorian advice."

Dr A.D. BUTI: The minister said one of the main reasons —

Mr P.B. Watson: You weren't going to vote for it.

Mr A.P. Jacob: One of three; you haven't addressed the other two.

Dr A.D. BUTI: The minister said that one of the main reasons he was opposing this was the constitutionality of the clause.

Mr A.P. Jacob: Of the Victorian clause.

Dr A.D. BUTI: Oh, the Victorian clause. Is the minister going to oppose Western Australian legislation because of constitutional problems with a Victorian clause?

Mr A.P. Jacob: It is still the same Constitution in Victoria, or have I missed something?

Dr A.D. BUTI: There is a Victorian Constitution Act, as there is a Western Australian Constitution Act, but the Constitution we are talking about is the Australian Constitution.

Mr A.P. Jacob: Is it a different Constitution federally?

Mr W.J. Johnston interjected.

Dr A.D. BUTI: Exactly. The minister has not shown that clause 6 of the bill before this house is unconstitutional. Why did the minister not get his advice on this clause from the State Solicitor's Office of Western Australia?

Mr A.P. Jacob: Why would I bother? Firstly, we had made the decision.

Dr A.D. BUTI: "Why would I bother?" That is exactly right. This government treats any bill before this house that does not originate from the government with contempt.

Mr W.J. Johnston: Hear, hear!

Dr A.D. BUTI: The government treats anything introduced by the opposition with contempt, as it treated the domestic violence bill that was before this house with contempt, even though it contained clauses that the Attorney General in the other house introduced. The government's bill will not get through because, as usual, it has left it too late. The government never intended to get that bill through. The government could have passed our domestic violence bill that was before the house and Saori's law would have been enacted by now. There would then be stronger penalties for perpetrators who breach violence restraining orders; but, no, as usual, the government treats with contempt anything that this side of the house introduces. How dare the minister come into this house and talk about Victorian state advice on Victorian legislation without taking the time to seek Western Australian State Solicitor's advice about a bill that originated in this chamber.

Mr A.P. Jacob interjected.

Dr A.D. BUTI: It is because he treated it with contempt, as he did in 2011 when Hon Bill Marmion treated our bill with contempt. He uses any excuse he can find. One minute the government wants a national scheme, the next minute it says it will go its own way. It is always finding excuses for never considering anything we introduce into this house. It is a deplorable government because a good government would look at legislation introduced by this side of the house and treat it with due respect. We have an environmental spokesman here who knows a lot more than you, mate.

MR C.J. TALLENTIRE (Gosnells) [7.51 pm] — in reply: I rise to respond to the various speeches made during this second reading debate. I thank members for their contributions. I think, overwhelmingly, there is support for a container deposit scheme, and there was strong recognition of the work this side of the house has done in developing a bill, over a number of years it has to be said, because previously a bill was developed by my colleagues Hon Sally Talbot and the then Leader of the Opposition, Hon Eric Ripper, and presented to this place in 2011. We have kept that bill in play. We have been talking about the need for a container deposit scheme and have been receiving from people in our electorates very strong support for the legislation, but the government has decided to play catch-up.

Mr N.W. Morton interjected.

The ACTING SPEAKER: Member for Forrestfield!

Mr C.J. TALLENTIRE: The government has put out some media graphics presenting its model, if you can call it that, but they contain nowhere near the level of detail that is contained in the Container Deposit and Recovery Scheme Bill that is before the house tonight. This legislation spells out the hub-and-spoke system we believe Western Australians want to see. It is a system that we know can work. It is an evolution on the South Australian scheme. We know that that scheme has worked very well for nearly 40 years.

Mr A.P. Jacob: You know this isn't the South Australian scheme.

Mr C.J. TALLENTIRE: I have just said that this is an evolution of the South Australian scheme, because although that scheme has worked reasonably well, it can be improved. One of the key improvements we want to see is that the hub of this hub-and-spoke system is a fund managed by the Waste Authority. If someone wants to put onto the market 1 000 units of beverage, they must pay 1 000 times 10c into the fund, which will be there for reclaiming. It is a very simple scheme, which would be run by the community and government. We do not believe an industry-run scheme is the answer. Ultimately, the South Australian scheme could be described as an industry-run scheme. As I mentioned in my second reading speech, that leads to certain problems with accountability—the paper trail, if you like, of where the funds come from and how reimbursements are made.

I want to touch on one point because the minister seems to be in a bit of a state of confusion around constitutionality. Yes, we have received some advice on that—the minister probably also received it—from Roger Jacobs, the senior assistant parliamentary counsel. I will quote from the letter, but the minister will get excited when he hears this. It states —

> As the Bill imposes a levy with all the characteristics of a tax, it is necessary to draw your attention to s. 46(7) of the Constitution Acts Amendment Act 1899 (WA). Section 46(7) provides that Bills imposing taxation shall deal only with the imposition of taxation. However, the proposed Bill deals with the establishment of a refund scheme, including the criminalising of claims to refunds on beverage containers purchased outside Western Australia, which appears to go beyond the imposition of the levy. Therefore, the Bill risks breaching s. 46(7).
>
> Even so, s. 46(9) of the *Constitution Acts Amendment Act 1899* (WA) provides that any failure to observe any provision in s. 46 is not to affect the validity of any Act enacted. Consequently, failure to comply with s. 46(7) is essentially a procedural point, but one which might be pursued by other members of Parliament.

That is what we have seen—the minister wanted to contest things. The legalities of this need to be tested. That is the exact sort of issue that we have to test in this place. That is why we have the second reading debate.

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister, he is not asking a question.

Mr C.J. TALLENTIRE: We have second reading debates for that sort of thing.

Mr A.P. Jacob interjected.

The ACTING SPEAKER: He is not asking a question, minister!

Mr C.J. TALLENTIRE: We have these debates because they are important and they test out issues. If the government is happy, we will be able to proceed to consideration in detail and really challenge points and test them out. That is as it should be. But of course we know there will be an issue with this.

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister!

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister, I call you for the first time. I have asked you not to respond, unless he asks you a question.

Mr C.J. TALLENTIRE: I just heard the minister say that I did not bother to be here for some of the debate tonight. The minister was notably absent from a very important function at Government House, which was the launch of the WA Parks Foundation. I do not know why the minister chose not to go. I made the effort to walk to Government House; the minister did not bother to. I went and it was a very important occasion

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Member, I would stay on this because of the time.

Mr C.J. TALLENTIRE: In the time that remains —

Several members interjected.

Point of Order

Mr W.J. JOHNSTON: I have a point of order, Mr Acting Speaker!

Mr J.R. Quigley interjected.

The ACTING SPEAKER (Mr I.M. Britza): Don't tell me what to do, member for Butler!

Mr J.R. Quigley: It was a humble suggestion.

The ACTING SPEAKER: Thank you. I accept the humble suggestion.

Mr W.J. JOHNSTON: Would the Acting Speaker please ask the minister to stop his constant droning. It is ridiculous. We sat in silence while he spoke but he is incapable of doing his job in this chamber and complying with standing orders.

Mr N.W. MORTON: I have a further point of order, Mr Acting Speaker.

Several members interjected.

The ACTING SPEAKER: Excuse me, members.

Mr N.W. MORTON: I thought points of order were heard in silence; I am just waiting for that silence.

I have been sitting in here for this debate and I thought the member for Gosnells was directing his comments to the minister, which I think allows the minister an opportunity to respond to those comments.

Several members interjected.

The ACTING SPEAKER: Excuse me!

Dr K.D. Hames interjected.

The ACTING SPEAKER: Member for Dawesville! The member for Forrestfield is still on his feet. Thank you, member for Forrestfield.

Mr N.W. MORTON: I might start again. I have been in here for this debate. I have been listening to everything that has been said. Further to the member for Cannington's point of order, I clearly heard the member for Gosnells direct his comments to the minister. The minister is within his rights to respond to comments that are passed across the chamber. I think that is fair and the minister should be allowed to be heard out so he can say what he had to say in response to the member for Gosnells' comments.

The ACTING SPEAKER: I did not hear the member ask a question. There are only a couple of minutes to go.

Mr A.P. JACOB: The member for Gosnells would not give me the opportunity to respond by interjection.

Several members interjected.

Mr A.P. JACOB: Standing order 92 —

Several members interjected.

The ACTING SPEAKER: With the time that is left, I am going to give the call to the member for Gosnells. He has only a minute.

Debate Resumed

Mr C.J. TALLENTIRE: Thank you, Mr Acting Speaker. I will conclude my remarks. This bill is an excellent bill. I commend it to the house.

Point of Order

Mr A.P. JACOB: If members just let me have my point of order —

Several members interjected.

Mr A.P. JACOB: I will give it to members—standing order 92!

Several members interjected.

The ACTING SPEAKER: Excuse me, we have not even heard whether it is a point of order or not.

Mr A.P. JACOB: It is very valid. I refer to standing order 92, which states —

> Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer or members of the Assembly or the Council …

The member for Gosnells referred to both the Governor and me and made a personal reflection on my attendance or otherwise at a function of the Governor.

Several members interjected.

The ACTING SPEAKER: Members!

Mr W.J. Johnston interjected.

The ACTING SPEAKER: Member for Cannington, watch the language. There is no point of order.

Want of Message from Governor — Ruling by Acting Speaker

The ACTING SPEAKER (Mr I.M. Britza): The question is that the bill be read a second time. However, I advise that the Container Deposit and Recovery Scheme Bill 2016, if passed, would provide for the payment of moneys in certain circumstances. Section 46(8) of the Constitution Acts Amendment Act provides that a vote, resolution or bill for the appropriation of moneys shall not be passed unless the purpose of the appropriation has been recommended by message of the Governor to the Assembly. I rule that this bill requires a message and note that one has not been received. Therefore, in accordance with the practice of the house, the question for the second reading will not be finally put to the house unless a message is received. I direct that the bill go to the bottom of the notice paper until a message is received.

Given that it is 8.00 pm, that concludes private members' business.

Several members interjected.

The ACTING SPEAKER: Member for Warnbro!

Several members interjected.

Mr F.A. Alban: You're such a smart-arse!

Withdrawal of Remark

The ACTING SPEAKER (Mr I.M. Britza): Member for Swan Hills, I am calling you. That is not the kind of language for this house, and I ask you to withdraw it.

Mr F.A. ALBAN: I withdraw it.

The ACTING SPEAKER: Thank you.

Several members interjected.

Mr W.J. JOHNSTON: Mr Acting Speaker —

The ACTING SPEAKER: Is this a point of order?

Mr W.J. JOHNSTON: Yes. The member for Swan Hills did not comply with the standing orders in withdrawing. He has to withdraw unconditionally. He cannot make further remarks—which he did. That is a clear breach of the standing orders of this Parliament and should never be tolerated.

The ACTING SPEAKER: Thank you.

Debate adjourned, pursuant to standing orders.

GENETICALLY MODIFIED CROPS FREE AREAS REPEAL BILL 2015

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 3: *Genetically Modified Crops Free Areas Act 2003* repealed —

Debate was interrupted after clause 2 had been agreed to.

Mr C.J. TALLENTIRE: Clause 3 of the bill is the clause under which we have been directed to raise the substance of the debate around this issue. I note that there has not been ample opportunity for good debate in this place on the merits or otherwise of this legislation. It is sad that on this major decision about whether we should allow Western Australia to be open to GM crops—this open-slather approach—we are making this decision so lightly.

Previously, the Minister for Emergency Services, who is acting for the Minister for Agriculture and Food in this place, commented that at the moment we can grow only two genetically modified crops in WA—that is, GM canola and GM cotton. One of the reasons that we can grow only two GM crops in WA is the Genetically Modified Crops Free Areas Act. It has been the gatekeeper and kept out the other ones. In this instance the minister is happy to leave it all to the federal government agency, the Office of the Gene Technology Regulator. If it says that something is okay, we will let it in and there will be no way of keeping it out. The minister is happy to give up our opportunity to make rational decisions. They may be the sorts of decisions that are not within the usual scope or thinking of the Gene Technology Regulator, but the minister is happy for us to give away that right to make our own decisions as Western Australians. If something such as GM wheat gets the tick from the Office of the Gene Technology Regulator, we can be sure that it will be grown by somebody or other in this state and we will have no right to say no to it. We will have no right to intervene and protect our fantastic marketing advantage of being able to say that we are a GM-free wheat producer. We will not have any opportunity to control that GM-free marketing advantage.

The government has embarked on a race to the bottom because commodity production will be only a contest about who can produce a product at the lowest price. The product will go to those consumers who do not care about whether they consume a GM-free product. It will not go to those consumers who are prepared to pay a premium price for a GM-free product. It will go onto the global market and we will have to take whatever the global price of the day is. There will be no opportunity for us to act as price setters—none at all. This is one of the worst acts of destining the Western Australian grain production system to being a simple commodity production system. What a shame. It is a missed opportunity. We could be up there as price setters with a product that is unique to Western Australia—that is GM-free; with a regional connection; something we can be proud of because it is clean and green and unique—but the minister is prepared to let that go.

That is the tragedy of it, yet what sort of debate have we had about it? We have had contributions to the second reading debate. We had a relatively brief response from the minister at the second reading stage. The new Minister for Agriculture and Food never even entered into the debate on this issue when it went through the other place. There is no way we can say that this issue has been tested by the government. The opposition has to do its job and conduct due diligence by testing out the government of the day on issues. The minister did not know that this was being run by officers in the biosecurity area of the Department of Agriculture and Food. The minister thought that this was being run by people in the biodiversity section of the Department of Agriculture and Food. I might need a brief extension of time.

That leads me to another point about the whole structure of the Department of Agriculture and Food and its staffing arrangements for this area. I gather that there have been some significant changes.

Mr J.M. FRANCIS: I am interested to hear more from the member for Gosnells.

Mr C.J. TALLENTIRE: I thank the minister.

Such has been the government's lack of priority for funding for the Department of Agriculture and Food that 18 months ago, those good officers at the Department of Agriculture and Food who were working on the various genetic modification projects were transferred into the biosecurity division of the Department of Agriculture and Food. That was when the government was slashing numbers in the biosecurity area of the department. The government was able to move these people working on GM matters into the biosecurity area to make it look as though it had not slashed the numbers in biosecurity, even though it was quite apparent in the budget before last that 30 jobs were lost. That would have been in the May 2015 budget. It was pretty clear that 30 staff from the biosecurity section were dismissed. That in itself is a tragedy. What is the connection between biosecurity and GM? GM staff would have scientific knowledge of gene technology, and I assume some would be involved in the marketing issues. However, given the government's treatment of this legislation, I can only suspect that there is no knowledge about the marketing implications of Australia losing is GM-free status. It is a tragedy that that is going on without the benefit of good, frank and fearless advice, because the government has slashed the public service to such an extent that it is even restructuring the public service. In the Department of Agriculture and Food, genetic modification specialists have been mixed in with biosecurity specialists. How can the minister be getting the very best of advice if that is how he is treating the agency? He will not be getting that impartial and knowledgeable advice. I do not get the connection between biosecurity and genetic modification people. The minister will have to explain that to me.

The minister will also have to explain how he got his advice about the implications of this decision on the marketability of our grains. Where will he get that from? I would have thought it would be clear to anyone with any marketing qualification. The minister will know that I have an agribusiness marketing degree from Curtin University. The golden rule of marketing is to make sure that we produce what the consumers want. It is not, as the minister was suggesting earlier, about letting the producers decide what they want to produce. If we do that, we are destined for failure. We must produce what the consumers want. We talked about this in the second reading stage. We suggested doing a test around this place, asking who wants to eat GM food and who

does not. Every time, the majority will go for food that is GM free. That is the basic marketing test. Until the government can prove to Western Australians that there is massive demand for GM products, there is no way we should be losing our GM crops free areas act. It is a tragic mistake for the marketability of our agricultural produce. It is a serious mistake.

There are two questions that the minister must answer. Where does his advice come from about the marketing, the marketability, and the dent that our marketability as a clean green producer of GM-free produce will suffer? Where will that go, and what will it cost us? What are the marketing implications? How many millions of dollars will we lose from the value of our agricultural produce if we lose our reputation as a clean green producer? How many millions of dollars will that cost us in the marketing of our reputation? The minister must answer that question, and he must also answer the question about how GM technicians came to be bundled in with biosecurity staff. How does that relate to the structure of the Department of Agriculture and Food and the ability of that department to provide the minister with good advice on marketing issues, biosecurity issues and GM technology? The minister will not be getting the best of that advice if it is filtered through and lost in the biosecurity area, and likewise he will not be doing the best for biosecurity. This is an absolute tragedy, and we will rue the day. It lets everyone down, especially our farmers and consumers.

Mr J.M. FRANCIS: Before I delve into the comments made by the member about the marketing of GM and non-GM crops and their export, can I say that, although I am not easily offended, I take a bit of offence, on behalf of the staff of the Department of Agriculture and Food, at the member's reflections on their knowledge and impartiality. That is a slight on the professionalism and independence of public servants in this state.

Several members interjected.

Mr J.M. FRANCIS: It is not me the member is having a crack at; I am free range, but staff are not—public servants are not. Quite frankly, the member for Gosnells should be better than that.

Several members interjected.

Mr J.M. FRANCIS: The member for Gosnells should be better than that. I want to put on the record my objection to his reflecting on the staff of that department in that manner. When it comes to the member's concerns about export markets, I can say this. The member knows, as I have said in here before, that about 30 per cent of the canola crop now grown in Western Australia is genetically modified. The European Union is still our biggest export market for non-GM canola. That means that it has faith in the ability of the state of Western Australia to segregate crops and still buy non-GM canola from Western Australia. Japan is still a major importer of both GM and non-GM canola from Western Australia. In fact, Japan also buys a lot of GM canola from Canada. I would just like to reinforce the fact that our customers, if you will—countries that buy produce from Western Australia—have complete faith, as has been proven over the last couple of years since a large-scale GM-canola crop has been grown in Western Australia, in the ability of the supply chain to separate those products. If that was not the case, we would see a different purchasing pattern coming from our customers that would demand segregation. I do not accept the member's position that the state of Western Australia is somehow jeopardising its branding or jeopardising a market because we grow a GM crop here. A GM crop has been grown here since 2010 and it has not impacted whatsoever on our major markets. We sell two types of crop—GM and non-GM—into those markets.

I will sit down. I am sure that the member for Gosnells has more comments to make, and I will listen to them intently for as long as I possibly can. However, I point out that I appreciate the fact that the Labor Party does not support this legislation. That is its right. We heard the debate in the Legislative Council go on and on and on and on for hours and hours. The time will come, probably later today or tomorrow, when this Parliament will have to make a decision about this. The government has made its case very clear as to why it supports the repeal of this bill. The opposition has made its case, and the farmers, the growers, and everyone else has made their case for years and years and years.

Mr M.P. Murray: Which you have not listened to.

Mr J.M. FRANCIS: The member says we have not listened, but I say we have listened.

Mr M.P. Murray interjected.

Mr J.M. FRANCIS: That is fine; we will have to agree to disagree.

Mr M.P. MURRAY: I would like to jump in. Although I probably could be called to order on this, I think that I also have to make a comment about the staff's position. Certainly the briefing we had gave us a very distinct view that that was what was wanted and that was what the staff wanted as well. That is my comment in response to the minister's comments along that line. I am saying that. Only three of us on my side of politics were there, and we talked about that afterwards. I will not make any further comment on that, but that was the way that we picked the briefing. That is as honest as I am standing here. We know whom we are talking to.

I still have problems with part 2and what discussions have occurred with the federal government on this issue. Have any mistakes been made over there or is there something that the minister may have wanted to put in the bill or did not put in the bill because of his contact with the federal government? I would really like to hear what happened there because, surely, there was some interaction between the federal and state governments before this bill was drafted, or during its drafting, to make sure that mistakes were not made that were previously made over there.

Mr J.M. FRANCIS: I ask the member to give me a little more information. I accept that he is trying to ask a legitimate question and I will try to give him a legitimate answer.

Mr M.P. Murray: I'm saying that we will now fall under the federal government's jurisdiction. Have there been any mistakes that could have been tidied up with a bill that came to the state and still kept the state jurisdiction?

Mr J.M. FRANCIS: Does the member mean in other states —

Mr M.P. Murray: Yes.

Mr J.M. FRANCIS: — such as Queensland?

Mr M.P. Murray: It doesn't matter where. I'm not particular about it. I'm just asking whether there is. I don't know of any. I am asking whether any research has been done to make sure that, in repealing this act, we don't leave areas that should have been tidied up with maybe a small bill beside this one.

Mr J.M. FRANCIS: I am advised that the only example that is known of is that when the Brisbane River flooded, a greenhouse that had genetically modified bananas growing in it flooded and all the GM bananas drowned, for want of a better word.

Ms M.M. Quirk: Were inundated.

Mr J.M. FRANCIS: They were wasted—that is probably not the right word either! The member gets the idea. There was no escape, if you will—I am going to curse myself for using that word too. There was no outbreak of GM bananas; it was contained.

Mr C.J. TALLENTIRE: I am happy to clarify my concerns about the advice that the minister is getting. I have respect for the staff at the Department of Agriculture and Food, but the fact is that people have their specialties, especially in science. So it is wrong for people who are technicians or scientists to be giving the minister advice on a piece of legislation that will have huge ramifications for the marketability of our produce. Somebody who has a weighty PhD in gene technology and has worked away for years will not be conversant on marketing issues, and it would be completely wrong to suggest so. That is why I am asking whether the minister is getting the breadth of advice that he needs so that he can properly appreciate the consequences of this decision.

The minister has tried to glibly dismiss the issue of the marketability of our produce by using the example of canola. The whole point is that this is about getting rid of the constraint on not just canola. We have already let canola through. That has already gone; forget about that. It is likewise with cotton. We are talking about crops in the future. We will have to allow any future crop that the Office of the Gene Technology Regulator deems to be okay to be grown here. So what will be the consequence for our A1 wheat or our barley and oats? That is the real marketability issue. It is not about canola. People do not eat canola directly. It is not the big game at all. What is really of concern is that if the OGTR decides that GM wheat is okay, we will have no way of stopping the production of GM wheat in WA, and before we know it, we will have a marketing reputation for being the producer of a global GM-wheat product that is the ultimate price-taker crop. We will have no way of distinguishing our product from others anywhere else in the world and we will just have to take the global price. That is the real tragedy. I want to be clear about it: the minister is not getting the right advice if he takes it from people who are technically skilled in genetic modification. They are highly competent and brilliant, and I admire the quality of technical skill and scientific expertise that a person must have to be able to work on the development of GM technology. It is amazing technology and it has uses and applications in the pharmaceutical industry. But people who have that skill set are not the people the minister should be getting advice from when it comes to marketing implications. That is why I suspect that the minister's response to me of a few moments ago was so narrow. He just outlined the implications for canola. I would contest those anyway, but, minister, it is much bigger than canola. It is about the implications for our reputation as a producer of GM-free wheat, oats, barley and whatever other grain crop we want to talk about in the future. That is what is at stake here and that is why the minister needs to have the very best marketing advice. As I say, it always goes back to the issue of producing what consumers want. Where has the minister got the advice to the contrary?

Mr J.M. FRANCIS: I will come back to the member's question, but I will comment on the interjection from the member for Warnbro. The comment that members of Parliament do not have the ability to research or have not researched these matters themselves is wrong. Last Thursday at the end of the second reading debate on this bill I made the point that in 2009, as the newly elected backbench member for Jandakot, when there was talk about allowing exemptions for GM canola in Western Australia and all members of Parliament were inundated with

correspondence from pro and anti-GM proponents, I went out on my own steam to talk to Professor Singh at Curtin University. He is not a grower, he does not sell grain and he is not involved in it. He has no financial interest whatsoever other than the fact that he is one of the premier scientists in this particular field and—this was in 2009—I could get absolutely impartial and independent advice about issues like this. The reflection that people do not talk to experts —

Mr P. Papalia interjected.

Mr J.M. FRANCIS: I am just commenting on the member for Warnbro's reflection. Having said that, I spoke to a lot of other people about these issues, way before I even knew I would have carriage of this bill.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: The sum total of the member for Warnbro's research today was to put some words into Google, so congratulations.

I come back to the issue raised by the member for Gosnells about consultation and the will of people who are involved in this particular market. I hear the member for Gosnells, but I do not agree with him.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: I do not even know what he is talking about, sorry.

The Grain Industry Association of Western Australia is the peak body representing the interests of those in the grain supply chain. That is not negotiable; everyone accepts that. There are also other organisations such as the Ord River District Co-operative. There are major players in this sector in Western Australia.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: Both the Grain Industry Association of Western Australia and ORDCO support the repeal of this act. The "WA Grains Industry Strategy 2025+", which was developed by the Grain Industry Association of Western Australia and launched at an annual crop updates event in February 2015, specifically noted that it would assist industry for the state government to repeal the Western Australian Genetically Modified Crops Free Areas Act 2003. There can only be so much consultation and, as I said earlier, I accept that the member does not agree with this bill, I accept that he will vote against it and I accept his belief that the majority of people involved in growing grains in Western Australia are on his side. I can accept that opposition members believe that, but they have to accept that the government believes they are wrong.

Mr C.J. Tallentire: What about consumers?

Mr J.M. FRANCIS: I have just gone through the fact that markets such as the European Union still buy both GM and non-GM canola from Western Australia.

Mr C.J. Tallentire: But what do consumers really want? What about wheat? Does anyone want GM bread? No! Tell me one person in this room who wants GM bread.

Mr J.M. FRANCIS: Diabetics inject insulin into their bodies! Come on, member! The bottom line is that a lot of organisations and people with an interest in this field support the government's position. I will not give gratuitous political advice to the opposition, other than to say that it has read the mood of the electorate wrongly, but that is its problem.

Mr M.P. MURRAY: Before I get to the main thrust of my question, I see a gentleman over there who is rather short of hair getting a bit itchy and probably looking at gagging debate. I remind members that that is not the way things go. One thing about this is that I can count and if things fall the way I would like them to, I will make sure they bloody count afterwards! That is a warning about how many times the government uses the gag. We have learnt over a long time in this place that the boomerang keeps coming around and clouting people on the back of the head. I am reminding the Leader of the House of that. If he wants to play, that is fine. But if it falls the other way—he will not be here, so it will not matter—it will come back and haunt the rest of his colleagues, as it has done for us on several occasions when we had previous ministers who loved to use it, and then it was used against us. It has not been used for quite some time in this place, but that is just a slight warning. The Leader of the House does not have to take it if he does not want to. It is like the advice we get from the minister; we do not have to listen to it. It is quite simple. I will move on. I have had my say and I will get back to the bill, before the Chair pulls me into gear.

We have seen other countries that are desperate for food ban foodstuff such as eggplant. The way I see it, this bill does not guarantee in the future stopping a plant that has been banned in other countries from being grown in Western Australia. Why did the government not include something in this bill to cover that issue, instead of adopting the one-model-fits-all for Australia?

Mr J.M. FRANCIS: I am trying to follow the member.

Mr M.P. Murray: I understand that India has banned GM eggplant.

Mr J.M. FRANCIS: I would ban eggplant full stop, GM or non-GM, along with brussels sprouts!

Mr M.P. Murray: I am trying to say that other areas that you would think would embrace GM technology have banned GMOs, and I used India as an example, which has stopped GM eggplant from being grown there. What stops those sorts of plants coming into Western Australia when we do not have legislation for that? Let us face it, they could go into any of the other states, but why did the government not include in the bill some control and regulation over GMOs? I am not talking about saying no to GMOs, because the minister said he supported that. Why didn't the government bring in a bill that did give us some control?

Mr J.M. FRANCIS: While I am on my feet, if I take the premise of the member's question correctly, although I do not concede it, at the moment there would be nothing stopping someone importing genetically modified eggplant seed into Queensland, which does not have any legislation whatsoever, but they still could not grow it, and the seed cannot be brought into Australia because it is prohibited by commonwealth law anyway. I am trying to give the member a decent answer.

Mr M.P. Murray: I'm sorry if you haven't picked up my drift, but what I'm trying to say is—fine for there, but why didn't we put our protections in if we didn't want to grow it?

Mr J.M. FRANCIS: So the member is suggesting that the state of Western Australia copy —

Mr M.P. Murray: I'm saying to you —

Mr J.M. FRANCIS: I am not trying to be difficult; I am just trying to get to the crux of the matter.

Mr M.P. Murray: What I'm saying to you is that you've brought a broad brush, wiped it all out, and used one model; that's the Australian model. Why, in your sort of politics, didn't you bring in a new bill, not a disallowance, to keep some control of what we grow in Western Australia?

Mr J.M. FRANCIS: Is the member saying that we should have mirrored or carbon-copied the commonwealth import regulations and applied them to the state of Western Australia?

Mr M.P. Murray: No, I'm not. I'm saying that we would have a regulation here that they couldn't bring them in. We are now ceding all to the federal government.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: That is right—the Office of the Gene Technology Regulator. The commonwealth already has that authority, so I just do not see why the state would mirror that as well, when other states have not mirrored it; Queensland certainly has not. There is a Labor government in Queensland, and I do not see it jumping up and saying it should go and do what the member is suggesting. I am happy to continue on this, but I still do not quite follow what the member is trying to get to.

Mr M.P. MURRAY: Maybe the minister has now sorted out what I am trying to put across here: instead of taking the whole bill out and leaving it open for the federal government to make decisions for our state, why did we not bring in a bill that would give us some room to manoeuvre if someone else wanted to bring in something that the rest of Australia might have agreed to and we did not?

Mr J.M. FRANCIS: The simple answer is that the producers will not grow it if there is no market for it and if it is not safe. If it was something like —

Mr M.P. Murray: Isn't that what the member for Gosnells tried to point out earlier?

Mr J.M. FRANCIS: No, I do not think so. He is suggesting the government should regulate it. We are saying that if the Office of the Gene Technology Regulator does not approve it as being safe, it will not be allowed to be brought into Australia, and if it does deem it to be safe, it will be allowed to be brought into Australia. If it is brought into Australia and grown and there is no market for it and it cannot be sold, silly grower; but, essentially, the bottom line of all this is that the growers will grow produce if there is customer demand to buy it. It is going to come down to a simple equation of supply and demand economics once it has been deemed safe by the Office of the Gene Technology Regulator.

Mr P. PAPALIA: Following on from what the minister just said, how many applications have proponents made to the Office of the Gene Technology Regulator to introduce individual GM crops to Australia? Of that total number of applications, how many have been rejected by the Office of the Gene Technology Regulator?

Mr J.M. FRANCIS: I am advised that that information is publicly available on the Office of the Gene Technology Regulator's website. I do not have a laptop in front of me so I do not have that information in front of me, but the member should be able to find it. It is publicly available information. I am advised that some people have applied for —

Mr P. Papalia: The deep research you were claiming earlier didn't include determining how many applications had been made to the authority that you are ceding our state's control of GM crops to. You didn't even determine how many had been made, and of those applications, how many had been rejected.

Mr J.M. FRANCIS: I cannot tell you that as I stand here without a computer in front of me, but I am informed that it is publicly available on the regulator's website.

Mr P. Papalia: Did any of your advisers seek that information?

Mr J.M. FRANCIS: Some have been rejected; obviously, they deem them safe.

Mr P. Papalia: Do you know what percentage?

Mr J.M. FRANCIS: If any member wants to look up the website on a computer, they will probably find that information now.

Mr P. Papalia: You ridiculed me before for googling.

Mr J.M. FRANCIS: I am standing here without even a phone in front of me, so I cannot provide that information. It is publicly available information.

Mr M.P. MURRAY: If the minister and the adviser do not know how many, could we then know who has applied?

Mr J.M. FRANCIS: I am advised it is an open and transparent system. It is publicised on the website. The member can look at it. I do not have it in front of me right now.

Mr P. ABETZ: Could the minister clarify for the benefit of the chamber that when it comes to agricultural and veterinary chemicals, my understanding of the system is—I have worked in it so I am pretty sure I am right—that the Australian Pesticides and Veterinary Medicines Authority evaluates whether a chemical is safe. It sets the parameters such as withholding periods and all that kind of thing. The state has ceded that right to that commonwealth body of bureaucrats to make decisions and it makes those decisions. We do not have a way of saying, "Sorry, you can't use that chemical in Western Australia," because that decision is made at a national level. Given that we have ceded that right to the commonwealth and given that agricultural chemicals are very toxic substances so we have ceded that authority, I understand that we have not ceded any other right to the OGTR. That body makes the decision and it covers the whole nation, so it is in keeping, is it not, with the philosophy of all our agricultural industries in the regulation?

Mr J.M. FRANCIS: The short answer is, yes. However I point out that the two crops grown in Western Australia now—canola and cotton—could not have been grown in Western Australia regardless of state legislation without the approval of the Gene Technology Regulator that it was safe. The answer is, yes, but even as of right now, everything that is done still needs OGTR approval.

Mr M.P. MURRAY: I have more of an interjection, I would say, than a question about that, but maybe the minister can help. I am now getting a little confused about whether it is sprays, chemicals or GM crops, but I understand that that is not necessary. The answer given under the guise of answering a question is not necessarily so if we come to fruit-fly sprays.

Mr C.J. TALLENTIRE: To get to the point that the member for Southern River is raising, I think there are controls under the Biosecurity and Agriculture Management Act on the use of sprays; perhaps the member might like to investigate that further. My particular question is: can the minister tell me of any GM crops that have been refused by the Office of the Gene Technology Regulator or Food Standards Australia New Zealand?

Mr J.M. FRANCIS: I am advised that no crops that have been applied for have been knocked back, but a species of fish called a GloFish—I am serious—was knocked back because of concerns that it might contaminate the natural environment. Apparently, a genetically modified GloFish was refused.

Mr C.J. TALLENTIRE: I thank the minister for that answer, but the minister has really just further raised my concerns. If the Office of the Gene Technology Regulator and the Food Standards Australia New Zealand people have no record of rejecting any GM crop—not one that the minister can name—that suggests that they are not bodies that we can necessarily trust; or is the minister suggesting that they are happy with every GM crop that comes along? How can it be that we are handing over such a responsibility to these bodies? The minister has really answered my question, but I wanted to go to another issue. In 2014, I took the time to have a briefing from the then Minister for Agriculture and Food's staff and departmental officers on the Gene Technology (Western Australia) Bill 2014. I do not know what happened to that legislation. There is my question: what has happened to it, and what is the interplay between this legislation and its removal, and the proposed Gene Technology (Western Australia) Bill 2014? I am particularly concerned because when we look at the purpose of the Gene Technology (Western Australia) Bill 2014, it states —

> This Bill will replace the Western Australian *Gene Technology Act 2006* with an Act applying the Commonwealth *Gene Technology Act 2000* as a law of the State. The new Act will ensure ongoing uniformity without the need for specific amendments to the State Act whenever the Commonwealth Act is amended.

It just seems that everywhere we go with gene technology, we are handing it over to the commonwealth. The minister might tell me that this legislation has not advanced because I think it had some constitutional problems; its constitutionality was to be questioned. It seems to indicate the recurring theme that the state of Western Australia does not want to take any control in this domain at all; we want to hand it all over to the commonwealth. Let us consider what that really means. We have unique biophysical features in Western Australia. We have our own climate. Why would we want to rely on the decision-making of a commonwealth body that looks only at certain safety aspects and the applicability of those to the whole nation?

It will not look at the particular conditions that might arise in the south west of the state or in the Ord area where, obviously, the conditions are very different from elsewhere. There are many different climate zones and soil types. We are a very different place from other parts of the country. Obviously, we are proud of that; we often say in this place how different Western Australia is. When it comes to the biophysical nature of the state, the base upon which our agricultural produce is grown, the difference is extreme. There is also that huge barrier between us—the island effect—thanks to the Nullarbor Plain, which means we are protected from the mistakes made on the east coast. Why would we want to give that away? The minister must address the issue of what has happened with the Gene Technology (Western Australia) Bill 2014.

Mr J.M. FRANCIS: Member for Gosnells, I am advised that in 2001 a commonwealth Gene Technology Act was passed and there was government agreement from all the jurisdictions around the country to effectively have uniform legislation in each state to provide a national and consistent regulatory system throughout all states and territories. Obviously, the bill was introduced finally in 2014. Obviously, when Parliament prorogues, outstanding legislation has to be brought back in. It was brought back in 2014. I understand it was bogged down in a committee. I understand also that the purpose of that bill is to improve the vehicle by which Western Australia legislates for our component of the national scheme for the regulation of gene technology. The purpose of the national regulatory scheme is to protect the health and safety of people and to protect the environment from any risk that may be posed by gene technology. But, as I have pointed out, a 2001 commonwealth act covers the whole country on these matters anyway.

Mr C.J. TALLENTIRE: There is a commonwealth Gene Technology Act 2000. As the minister rightly says there, is the Western Australian Gene Technology Act 2006. The minister suggested that the 2014 bill is bogged down in a committee of the other place, but this bill seeks to make our gene technology legislation totally uniform with other legislation across Australia. The explanatory memorandum says that the new act will ensure ongoing uniformity without the need for specific amendments to the state act whenever the commonwealth act is amended. Is this not just another case of our ceding to the commonwealth all power for the regulation of GM technology in Western Australia?

Mr J.M. FRANCIS: The Gene Technology (Western Australia) Bill is entirely separate from the bill now before the house. Members seek only to confuse issues by mentioning it in the context of this debate. It is a separate issue.

Question to be Put

MR J.H.D. DAY: I move —

That the question be now put.

Division

Question put and a division taken, the Acting Speaker (Ms J.M. Freeman) casting her vote with the noes, with the following result —

Ayes (30)

Mr P. Abetz	Ms W.M. Duncan	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr F.A. Alban	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Mr B.J. Grylls	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Dr K.D. Hames	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mr C.D. Hatton	Mr P.T. Miles	Mr T.K. Waldron
Mr M.J. Cowper	Mr A.P. Jacob	Ms A.R. Mitchell	Ms L. Mettam *(Teller)*
Ms M.J. Davies	Dr G.G. Jacobs	Mr N.W. Morton	
Mr J.H.D. Day	Mr A. Krsticevic	Dr M.D. Nahan	

Noes (12)

Ms J.M. Freeman	Mr F.M. Logan	Mr J.R. Quigley	Mr C.J. Tallentire
Mr R.F. Johnson	Mr M.P. Murray	Ms M.M. Quirk	Mr P.B. Watson
Mr W.J. Johnston	Mr P. Papalia	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*

Pairs

Ms E. Evangel	Ms J. Farrer
Mrs L.M. Harvey	Mr M. McGowan
Mr J. Norberger	Mr R.H. Cook
Mrs G.J. Godfrey	Ms L.L. Baker
Mr G.M. Castrilli	Mrs M.H. Roberts

Question thus passed.

Consideration in Detail Resumed

Clause put and passed.

Clause 4: Act amended —

Mr C.J. TALLENTIRE: Clause 4 seeks to amend the Biosecurity and Agriculture Management Act 2007.

Mr M.J. Cowper interjected.

Mr C.J. TALLENTIRE: Sorry, did the member want to make a comment?

Mr J.M. Francis: The member has my attention.

Mr C.J. TALLENTIRE: I was curious to hear the member for Murray–Wellington's interjection.

In amending this state legislation, what implications are there for our main piece of legislation that covers the whole agricultural sector? What are the implications in removing any control that that legislation has for genetically modified crops? From my reading of the bill, if the Biosecurity and Agriculture Management Act 2007 is amended in this way, there will be no mechanism left to us by which we can control GM crops. If something is a GM crop, we can go for our lives, because this essential piece of agricultural legislation will have no control over that crop. A GM species may become a weed. However, we will not be able to apply the biosecurity provisions and the regional biosecurity groups to control that problem GM weed, because the minister has exempted GM from the Biosecurity and Agriculture Management Act. I want to hear from the minister why the main piece of legislation that governs all agricultural practices in Western Australia is proposed to be amended in this way and what powers are contained in this bill to control GM weeds. We only have to drive along the Great Eastern Highway bypass after the weeds have been sprayed to see the persistence of GM canola on roadsides. I am sure many members have passed through that area at different times. A couple of months ago, GM canola was very apparent, with bright yellow flowers. The City of Swan or Main Roads WA had sprayed the roadside verges with Roundup, and the only thing left standing was the GM canola. That is an example of the sorts of problems we will face. That is in the roadside context. I am asking the minister what will happen in the agricultural context if we find a GM weed.

The ACTING SPEAKER (Mr I.M. Britza): Thank you, members. You are a bit loud up there.

Mr C.J. TALLENTIRE: Will there still be any power under the Biosecurity and Agriculture Management Act 2007 to apply biosecurity mechanisms or create regional biosecurity groups to take action on things like skeleton weed or bovine johne's disease—all the sorts of pests and diseases that potentially plague modern agriculture? We have a piece of legislation that can tackle those problems. However, I am concerned that with this amendment, the minister is cutting out any power that the Biosecurity and Agriculture Management Act would have provided to enable us to take action on problems that may arise in the future, such as GM weeds. I look forward to hearing the minister's answer to what powers will remain to us under the Biosecurity and Agriculture Management Act to tackle those problems.

Mr P. PAPALIA: That is a very reasonable question. This clause will remove GM crops from the Biosecurity and Agriculture Management Act, which gives us the power to prevent pests and diseases that may threaten our agricultural and horticultural industries from entering the state. Is it correct that as a consequence of this clause, we will now not be able to prevent any proponent, producer or intended grower of a GM crop that may inadvertently have a disease, or that may come from a country in which a disease is rampant that is not present in Western Australia, from coming into this state? I think that is a reasonable question.

Mr J.M. FRANCIS: The answer is no, because, firstly, GM and biosecurity are separate issues. Also, if we are talking about exotic pests —

Mr P. Papalia: I will explain what I am saying. Theoretically, if GM apples are being grown in Argentina, and those apples have a disease that is not currently prevalent in Australia or Western Australia, and the proponent wants to grow those apples in Western Australia, is the minister not disempowering the Department of Agriculture and Food from preventing those apples from being brought into this state because of this clause, which will exempt GM crops from being subject to the biosecurity act?

Mr J.M. FRANCIS: No. To give the member a practical example, the state has the ability to impose restrictions on the import of anything at all at the Western Australian–South Australian border, which the Department of Agriculture and Food controls and checks —

Mr P. Papalia: Under which act—biosecurity?

Mr J.M. FRANCIS: Correct.

The ACTING SPEAKER: Let the minister finish.

Mr J.M. FRANCIS: The member is talking about a hypothetical apple with an exotic disease.

Mr P. Papalia: Say it has Alternaria leaf blotch. It's a GM apple so it's not just an apple that is non-GM. You have now removed GM crops from the biosecurity act, have you not?

Mr J.M. FRANCIS: It would not make any difference. If we were concerned about exotic pests or diseases, under the Biosecurity and Agriculture Management Act, we would still be able to put restrictions on importations into the state of Western Australia. We cannot help the other states, although our GTR can help the country, but so far as crossing the Western Australian border is concerned, of course we can still do it. That is exactly the same reason why when we fly into the airport, there are quarantine dogs that are run by DAFWA. If we cross the South Australian–Western Australian border in a car, which I did not that long ago, we get stopped and searched. I declared tomatoes and they told me to put them in the bin; they were not GM tomatoes. Exactly the same provisions would still apply. Whether it is a GM apple or a non-GM cherry tomato, the state has the same ability to control the import of pests.

I have two minutes. While I am on my feet, I will refer to these notes. Clause 4 states that the BAM act is amended and clause 5 repeals section 4(2)(e) of the BAM act. The amendment simply deletes a reference to the act that is being repealed. Just bear with me and I will put this in *Hansard* —

> **4. Relationship with other Acts**
>
> (1) Each of the following written laws must be read with this Act as if they formed a single Act —
>
> (a) the Biosecurity and Agriculture Management Rates and Charges Act 2007;
>
> (b) the *Land Tax Assessment Act 2002*, in its application to the assessment of rates payable under Part 6 Division 1 Subdivision 2;
>
> (c) the *Taxation Administration Act 2003*, in its application to rates payable under Part 6 Division 1 Subdivision 2.
>
> (2) The provisions of this Act are in addition to the provisions of the following Acts —
>
> (a) the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*;
>
> (b) the *Animal Welfare Act 2002*;
>
> (c) the *Environmental Protection Act 1986*;
>
> (d) the *Exotic Diseases of Animals Act 1993*;
>
> (e) the *Genetically Modified Crops Free Areas Act 2003*;
>
> (f) the *Health Act 1911*;
>
> (g) the *Poisons Act 1964*;
>
> (h) the *Police Act 1892*.
>
> (3) Except as provided in section 40(3), if a provision of this Act is inconsistent with a provision of an Act referred to in subsection (2), the latter provision prevails to the extent of the inconsistency.

It is an inconsequential amendment; it simply deletes a reference in the BAM act to the act that is being repealed.

Mr P. PAPALIA: Could the minister explain the process by which Western Australia, the department and, subsequently, government will be notified by the Office of the Gene Technology Regulator that it has authorised the introduction of a genetically modified crop that is not currently grown in Western Australia once the act is repealed?

Mr J.M. FRANCIS: I am advised that when the Gene Technology Regulator makes a determination, it is published on the website. The office has a mailing list of interested persons that it has collated. It has a registered person in each jurisdiction—in this case, it would be through the Department of Agriculture and Food—whom it notifies. The office can also place public notices in newspapers. The office does what it can to get it out. If someone wanted to know about the determinations, it would be easily done.

Mr M.P. MURRAY: Exactly what the minister said earlier in the night that he would not do with this bill, if it passed, was that he would not be putting anything out to let people know, and they would have to find out in their own way through television or other sources. That is what he said earlier when I asked the question. Now, he is saying that the gene technology group will put out a promo to say that this is going to happen, but the government will not do it.

Mr P. PAPALIA: Following on from the answer the minister just provided, can he tell us who will be the person at DAFWA? Will it be the director general, or has someone else been nominated? I looked at the website for the Office of the Gene Technology Regulator, and it does not actually provide a list of all proponents, historically, who have applied and those who have been rejected. It does have a list of some that are currently being grown, and locations. It is probably statewide, but it does have a list like that. We were talking earlier about the likelihood that the website would provide that information. It does not provide the number of proposals, historically, and therefore a percentage or a number that have been rejected. That aside, can the

minister tell us who at the department would be the nominated person? It has a client register, I think it is called, or something of that nature, under which anyone who nominates will automatically receive updates from the office. I am assuming somebody would be nominated as the point of contact.

Mr J.M. Francis: I am advised that there are two designated people, and one of them is Dr Rosalie McCauley.

Mr P. PAPALIA: As a consequence of that, the process is that Dr McCauley receives any and all updates from the Office of the Gene Technology Regulator, because it just pumps out a group email to everybody. It is not specific to Western Australia, and there is no alert, alarm or flag or anything of that nature. Everyone on the list gets a notification.

Mr J.M. Francis: While you are on your feet, I think that is probably a good thing. My reaction would be: why would you break it down to one particular state? If the Gene Technology Regulator approved, hypothetically, a particular crop to be grown, why would you not advise every jurisdiction at the same time?

Mr P. PAPALIA: Just quietly—this is an observation, not a question—my speculation would be that the Office of the Gene Technology Regulator does not reject many GM crops. For those that are proposed, it seeks evidence from the proponent and accepts that evidence unquestioningly. It never conducts scientific research of its own, and then it approves the authority to grow, provided the state government has ceded all responsibility to it. That means that any GM would be allowed in Western Australia as a consequence.

Mr J.M. FRANCIS: Perhaps people, or corporations, or whoever it is, who try to advocate for a particular GM crop to be grown do not submit it to the Gene Technology Regulator until they have done their homework, and they have prepared for the assessment, and therefore it has passed. That could be another reason.

Mr P. Papalia: The Gene Technology Regulator doesn't do science; it does grey paper research.

Several members interjected.

The ACTING SPEAKER: Are you going to stand, member for Warnbro?

Mr P. PAPALIA: When was the last time that the Office of the Gene Technology Regulator did a field trial of a proposed GM crop?

Mr J.M. Francis: They don't.

Mr P. PAPALIA: Never, because it does not.

Several members interjected.

Question to be Put

MR J.H.D. DAY: I move —

That the question be now put.

The ACTING SPEAKER: The question is that the question be dealt with.

Question put and passed.

Consideration in Detail Resumed

Clause put and passed.

Clause 5: Section 4 amended —

Mr C.J. TALLENTIRE: This clause again relates to the Biosecurity and Agriculture Management Act 2007. I realise that this clause deletes one particular reference to the Genetically Modified Crops Free Areas Act from the Biosecurity and Agriculture Management Act, but I really think that the minister should tell us how the powers of that act will relate to the Genetically Modified Crops Free Areas Act. I will read out section 12 of the Biosecurity and Agriculture Management Act, which I note is about prohibited organisms. It states —

> (1) The Minister may declare that an organism of a kind specified or described in the declaration is a prohibited organism if there are reasonable grounds for believing that the organism —
>
> (a) has or may have an adverse effect on —
>
> (i) another organism; or
>
> (ii) human beings; or
>
> (iii) the environment or part of the environment; or
>
> (iv) agricultural activities, fishing or pearling activities, or related commercial activities, carried on, or intended to be carried on, in the State or part of the State;
>
> or
>
> (b) may have an adverse effect on any of those things if it were present in the State or part of the State, or if it were present in the State or the part in greater numbers or to a greater extent.

My question to the minister is: can those powers be used for a GM crop? I can use the example that I gave earlier about the GM canola that I see on roadsides in the Perth metropolitan area; if members drive around, they will see GM canola. We have tried to spray weeds from the road verges but the GM canola persists. Could that be declared a prohibited organism? Could the minister use those powers to declare any type of pest GM species, because there are now all sorts of things that we cannot foresee? I think it is inevitable that not just GM canola will become a problem as it is spilt around the place; many other species will become problems. Can the Minister for Agriculture and Food use the powers described in section 12 of the Biosecurity and Agriculture Management Act to declare a species to be a prohibited species? I think the minister's adviser will be able to tell him that a whole suite of actions can follow it up once that declaration is made. Can the minister please assure me that those powers will not be compromised by this repeal of the Genetically Modified Crops Free Areas Act?

Mr J.M. FRANCIS: I will go back to the point that I made about the previous clause, which is that there is obviously a difference that perhaps needs to be made clear between genetically modified organisms and biosecurity. Regardless of whether a crop is genetically modified, if it is a security risk, the answer is yes, it could be designated, as the member pointed out. If it is not, it would not be a risk because it would not have been approved in the first place by the Gene Technology Regulator.

Clause put and passed.

Title put and passed.

CONSTRUCTION CONTRACTS AMENDMENT BILL 2016

Second Reading

Resumed from an earlier stage of the sitting.

MR W.J. JOHNSTON (Cannington) [9.20 pm]: Before I was so rudely interrupted by question time —

Mr S.K. L'Estrange: Quite some time ago!

Mr W.J. JOHNSTON: Yes; it has been seven hours and 21 minutes since I spoke on this important piece of legislation, and I get the joy of continuing now. I was going through the commentary from the report of the Senate Economics References Committee titled "I just want to be paid", which was tabled in December 2015, and I was making some comments about company phoenixing. When the Speaker was in the chair in the lead-up to question time, I was explaining how I had heard about a contractor who had phoenix companies in the United Kingdom and then moved to Australia and had phoenix companies in Perth and is now headed back to the UK to do whatever may happen. The point is that he has left the jurisdiction and it will now be effectively impossible to chase him down for his criminal behaviour. That is one of the problems. The report states —

> Over three thousand possible cases of civil misconduct and nearly 250 possible criminal offences under the *Corporations Act 2001* were reported in a single year in the construction industry.

Often the Liberal Party at the federal level talks about the lawless construction industry in reference to trade unions. If there were 250 criminal offences in the Construction, Forestry, Mining and Energy Union in a year, it would be a front-page story. In fact, there have been fewer than that in the CFMEU, yet employers are involved in 250 criminal offences, and I am still waiting for the Liberal Party to get upset, I am still waiting for it to do something about it and I am still waiting for it to shed a single tear on behalf of the subcontractors who have had their money stolen effectively by these head contractors through phoenixing. It is an absolute disgrace, and that is not to leave aside what happened with the death of a worker on a building site last week. I was simply shocked to find that WorkSafe did not investigate the accident on the day it occurred. I am also shocked that the employer put out a statement to the media about what happened prior to an investigation. Is it not interesting that when there is a workplace death, usually the employer runs around and says, "Let's not speculate on what happened", yet Gerry Hanssen from Hanssen Pty Ltd was running around saying what had happened. It is an absolute outrage that he got away with that behaviour. Let us make it clear that an employer is solely responsible for workplace safety. Of course, workers have to behave in a safe manner, but the employer's sole responsibility is to provide a safe workplace. According to Mr Hanssen, that worker was apparently working without proper safety equipment. That is what he has said in the media. That means that he is admitting guilt. I hope that now he has admitted that he was at fault in the death of that worker, the government does not delay prosecution. It would be an outrage for Mr Hanssen to get away from being responsible for the death of a worker by not being prosecuted.

[Member's time extended.]

Mr W.J. JOHNSTON: Often there is commentary about the need to put corrupt union officials in jail, and if there are corrupt union officials, they should go to jail. As a former union official, the one thing I cannot stand is a corrupt union official. But what about some manslaughter charges against employers who admit that they are guilty of not providing a safe workplace? That is exactly what happened with Mr Hanssen. He said in the media that the worker was permitted by his company to work in an unsafe manner. That is exactly what he said in the

media. It is an absolute outrage that he did that. Then he sent that stupid email to the family of the victim. Has anybody ever heard of more offensive behaviour by a company director than to send an email to the family of a dead worker blaming that worker for their own death? What appalling behaviour! I will be interested to hear what action the minister responsible for this bill will take. That is of course the Minister for Commerce who also has responsibility for WorkSafe. I do not read every single media release put out by the minister, but I have not seen a media release from him on that death. I have not seen him take any action. I have not heard of him making a statement to the Parliament. I have not heard him referring the matter to the police for proper investigation of how Mr Hanssen was able to get away with his behaviour last week. It is an outrage. As I say, there are 250 possible criminal offences under the Corporations Act. How many charges or prosecutions arose from those? We know the answer—none. This is a lawless industry, but it is a lawless industry for the employers. They are the ones against whom there is evidence of breaking the law.

I will read further from the report of the Senate Economics References Committee. Under the heading "Insolvency affects everyone" it states —

> In one tragic case, the committee heard evidence from a man whose father, a highly respected and successful Perth businessman, took his own life while fighting for payment for work his company had completed for one of the biggest construction companies in the country on a major public works project in Western Australia.

Of course, the public works project that the committee was referring to is the Perth Children's Hospital, where a subcontractor got in dispute with John Holland and took his life when it was felt he had no alternative. That matter has been widely reported in the media in Western Australia. Again, where is the prosecution? On a government job, a subcontractor does not get paid and takes his own life. What happened? What was the government's response? I am still waiting. We are still waiting for the government to respond. We know what the problems are. Of course, one of the key problems is the minister, the Attorney General; Minister for Commerce. I imagine that if someone were to go into his office, they would not be able to see him sitting behind his desk because there would be so many reports sitting on it not being dealt with. There is report after report in every aspect of his portfolio and none of them are responded to. Here we are three and a half years after the original 2013 report by David Eaton into the subcontractor problems under Building the Education Revolution and it is only now that the government takes action for a problem that occurred four years ago, with seven days of Parliament to go in this chamber and 10 in the other chamber.

That is the priority the government has given to this problem. We had four years of talk and only now, after the Labor Party came out with a policy statement, does the government react. The Labor Party was very happy to lead the government into taking action, and I commend the Labor Party's "Protection for Subcontractors" policy statement of August 2016, which sets out a detailed plan to improve the situation for subcontractors. It is interesting, too, with insolvencies, that employees who are employed by an insolvent business have their entitlements guaranteed under a federal government scheme, but there is no similar scheme for subcontractors. More and more people in the construction industry have been pushed into subcontracting arrangements. As a former industrial practitioner—the member for Fremantle is another former industrial practitioner—I know that many of those contracts would not survive review by court, but who has the money to take a matter to the civil courts to get proof that the subcontract arrangement is a sham and they are in fact employees? I am sure that the member for Fremantle, like me, would have dealt with a number of cases in the Industrial Relations Court of Australia when we had that wonderful jurisdiction, which was a great low-cost jurisdiction for working people. I remember dealing with a number of IRCA matters in which the basic issue was whether people were contractors or employees. That is becoming much more difficult. The Fair Work Commission is not a court, and a commission cannot enforce its own orders. People can get an order from the commission, but they must get it enforced by the court. Although the Fair Work Commission is a low-cost jurisdiction, people still have to go back to court to enforce its orders; whereas the Industrial Relations Court of Australia, because it was a court, could issue an order and that order was therefore automatically enforced, which is a better position and a lower cost jurisdiction. Someone can get an order from the Fair Work Commission that they are an employee, but they then have to get that order enforced, which is a two-step process.

The WA Labor policy paper, which the government has meekly followed in our wake, sets out a detailed system to improve the position of subcontractors. As I said, the opposition will not oppose the Construction Contracts Amendment Bill 2016, but it notes that it is not good enough.

The Labor Party's policy includes a review of how government departments have implemented the recommendations in the "Construction Subcontractors Investigation" report, which came down over three years ago but which has not been properly implemented by the government. Labor's policy proposes the establishment of project trust accounts for government contracts to protect access to progress payments between head contractors and subcontractors, and the establishment of a security payments mechanism for government and non-government contracts to provide more transparency and structure for progress payments between head contractors and subcontractors. The policy proposes the consideration of introducing a demerit point system to

encourage change in the subcontracting industry, as is done in Queensland quite effectively. The policy proposes to institute a clearly defined procedure for calculating deductions from progress claims and examination methods to ensure that reimbursement payments are made within a reasonable time. It will ensure that retention moneys are held in project trust accounts. It will investigate a more reliable process for pre-tender assessment of head contractors. This is absolutely essential. In Western Australia, contractors have received work from the Liberal government and then those head contractors have gone broke almost immediately. That means there was no proper due diligence. How can it be that they are awarded these multimillion-dollar contracts and the government has not exercised any proper due diligence? It is an absolute disgrace.

It is proposed in the policy paper that we —

- Standardise and simplify subcontractor agreements and enforce the Australian Standards to make documentation fairer and more transparent for all.
- Apply mechanisms to clarify the procedures in the Construction Contracts Act 2004 relating to variation agreements between the head contractor and subcontractor …

As I explained before question time, that is one of the big areas that subcontractors end up in disputes with their head contractors over. The document continues —

- Work with industry and subcontractors on an accreditation process for subcontractors in various trades and task the Department of Commerce to establish a support mechanism to protect and assist subcontractors when dealing with head contractors.

Much more can be done to try to drive out these problems.

As I say, John Howard's brother was the director of a company that went into receivership and the employees got direct payments from the federal government to cover all the company's losses, and that is the only time that has ever happened in the history of Australia. That one individual case led to the protection of worker entitlements through a national compensation scheme, but in the construction industry the head contractors are pushing more and more workers into subcontractor arrangements under which they are not covered by the commonwealth security-of-payment scheme. Therefore, we need to look at the inevitable result, because inquiry after inquiry has demonstrated the problems, and the one I particularly referred to was the Senate Economics References Committee. These are serious problems; they have literally led to deaths and it is an indictment on the Liberal Party. The Liberal Party likes to wrap itself in the idea that it is somehow protecting small business and that it is on the side of small business, but when the rubber hits the road, it is nowhere to be seen. After eight years in government, four years after the Building the Education Revolution debacle, and three and a half years after the Eaton inquiry was handed down, only now is the Liberal government even talking about doing anything, and what it is doing is simply not good enough.

A drowning man will grab at anything. For the subcontractors in the industry who are in such terrible situations, as I have described, this is obviously an improvement, but it is not good enough and the Labor Party will continue to campaign for proper protections for subcontractors, not just this pitiful little single step after eight long years of this tired government that has run out of ideas and is led by the most unpopular Premier in the state's history. It is a disgrace that we have had to wait so long even for this pitiful little bit of action.

MR M.P. MURRAY (Collie–Preston) [9.37 pm]: My contribution will not be as long as many others, but I certainly feel that I have to stand and put a real story, if that is the word, to the bill. Sometime back I was contacted by two smaller companies, one of which was reasonably established and the other trying to become established. People had bought gear to work in their particular industries and they were certainly not what we would call flush with cash by any means. They were certainly not in the bigger realms of contracting; one had about 35 workers and the other about nine. When we look at it from that point of view, they are our majority employees in Western Australia, especially now that construction in the major areas has finished. These people were put under pressure because the bills had not been paid by the lead contractor. The lead contractor was contracted to Main Roads at the time and, unfortunately, the bills started to mount up for the small contractors. I will read out an email—it is only a short email—about how it affected them. This is probably the second or third email I got from them. The email states —

> Hi Mick,
>
> Just touching base and hope all is well?
>
> What actions do you recommend from here on in with regards to LGC getting paid the owed money from Brierty's as a large loss like this is really starting to cripple our business and in turn will affect the 90 odd staff we have in the South West and Perth Metro regions.

That company also contacted the member for Vasse on the same matter. She mentioned that to me and said that she had handed the email on to a minister, but nothing has happened. I am not even sure whether anything happened today, because I have not been able to contact them to find out whether any of the bills have been paid.

However, we know that the lead company has another contract at Boddington that is worth a couple of hundred million dollars, yet the person who is screwed is down the bottom. The bill deals with some of the problems in the tiered system, but how far down the line does it go? In some cases, especially in construction work, a subbie is fifth down the line and, of course, the companies above are bigger and get paid first. The fifth in line hopes for a trickle-down effect. The bill does not go far enough to protect what I call number five. Number five may employ only two or three workers, but he is just as important and has put out the same amount of money as the company at the top that has put out a large sum and with 90 workers. In this case, 90 workers across Western Australia is a lot. It does not matter where or what job it is, 90 workers is an extraordinary number of workers to take out of a country town.

Another person caught up in the same issue in the matter mentioned in that email is a local contractor who has about 35 people working for him. In that scenario when contracts are not written in, only those at the top get the money and then the banks move in to collect their share. That leaves smaller contractors down the line stuck within that tiered system.

How many times do we see a ute with a wheelbarrow, shovel and a couple of implements on the back, and a dog and a couple of mates inside, drinking choc milk on the way to work? Sometimes they do not even know whether they are going to get paid. They have families like everyone else and they should have the same rights as everyone else. They should not be told to get over it and get another job down the road because they are only small contractors. Unpaid bills, whether they are $100 or $1 000, hurt that person. In some cases, it is far easier for large companies to move on, because they are able to pick up a large contract somewhere else, as the company I mentioned in the email did, and are able to pay their creditors over time. Many smaller contractors will go out of business if they are not paid. That is probably the crux of the matter. How far down the line do we go? Who do we look after? How do we do look after them? The how is a very big question.

As I have said, the Labor Party is not opposed to any move that helps contractors, but let us look at it from a larger perspective and consider all the contractors, not just a few. We have to remember that small business employs the majority of people in Western Australia. It is not large businesses but small businesses that pick people up. A small business such as the subbie who is number five in the line is indirectly contracted by number one and although he or she has to wait for their money, they still have to pay bills at the concrete supplier or local hardware store. Do members see the problems that can arise when we go only halfway or just over halfway? This affects even the corner shop, where people grab a smoko early in the week and promise to pay up on Friday. But if there is no pay on Friday, the corner shop is not paid for the pie and juice bought during the week and that, in the main, is not the fault of the person who booked those items up during the week. That has been around for hundreds of years—"We'll fix you up"—certainly not by the dockets of old, but there has always been a relationship between those sorts of delis and the contractors around the place. It is a concern, and I think we have more work to do. We have to look after those people further down the line.

I hope people do not get too embarrassed about me reading those examples out, but I get a little frustrated when I know it has been taken to the minister—up until a couple of days ago nothing had happened. Let us hope that we look at it on a broader scale; let us hope that we are able to keep those small contractors in their jobs. Some of those people work very hard for three or four weeks and then have breaks because there is no further job until the next one comes up. Yes, they do get reasonable pay, but they work bloody hard when they are in there and get the job done to the best of their ability. Roadworks is one, but we need to look at many other areas of construction.

If we go down this road, I hope this is not the end of it; I hope the Construction Contracts Amendment Bill 2016 is only the start. To be quite honest, we have a long way to go. The other side of that is to think about, again, the casual worker who is below the contractor, the apprentice who is below the contractor, and some of those from group schemes get only three or four days with a contractor and are put back into the scheme again. If they all collapse, we will have more people out of work and bigger social problems. It is not only about cash flow—it is not only about keeping the bank happy or the corner shop, or the small bank as they say at times, happy—it is about making sure that when that money comes in from a government contract, everyone gets their fair share.

MR S.K. L'ESTRANGE (Churchlands — Minister for Small Business) [9.47 pm] — in reply: I thank members opposite for their contributions to the second reading debate on the Construction Contracts Amendment Bill 2016. Some very, very important points were raised in respect to supporting subcontractors, particularly small businesses that are part of the contracting chain on many of our large projects throughout Western Australia.

As many members who have spoken today and this evening understand, in September 2015 Professor Evans completed his independent statutory review. His conclusion was that the Construction Contracts Act has provided a useful mechanism for resolving contractual payment disputes. He saw some great strengths in the Construction Contracts Act, but he made 28 recommendations. Members know that a large number of those recommendations, bar, I think, two, are supported by government.

As Minister for Small Business, on 12 August I made an announcement on behalf of the government about seeing how we could put in place a suite of measures aimed at improving the security of payment for subcontractors. Members will recall that they included things such as the introduction of project bank accounts for Building Management and Works projects valued at over $1.5 million. Those were all covered as of 30 September 2016. We also aim to introduce the building and construction industry code of conduct to, I suppose, support the intent of the Construction Contracts Act. We will also be putting in place, through the Department of Commerce, a building and construction compliance unit. We will also expand the role of the Small Business Commissioner to be able to review and mediate disputes, so that he particularly has the authority to get information from both parties to increase his capacity to mediate. Of course, one of the key measures in that suite is making amendments to the Construction Contracts Act; that is what we are here about today.

This bill will increase the time limit in the Construction Contracts Act for lodging an application for adjudication from 28 calendar days to 90 business days.

It addresses a key concern that the 28 calendar–day time limit acts as an impediment for some participants, particularly small subcontractors, from accessing the rapid adjudication scheme.

Several members sought clarification on some points from me as the minister with carriage of this Construction Contracts Amendment Bill in this house. I will address some of them now, but some points will be better addressed during consideration in detail. Following are some of the key points I took notes on. The first was: why put in project bank accounts on Building Management and Works projects only to a value of $1.5 million up to $100 million, and not strategic projects? It has been determined that the majority of head contractor failures have been on projects between $1.5 million and $6 million. Head contractors working on these smaller value projects are more likely to face cash flow problems that result in difficulties paying subcontractors. They genuinely want to pay but very often they cannot. For larger projects, such as Department of Treasury contracts, they require a parent company guarantee whereby the contractor's parent company is contractually bound to the state to deliver the contract obligations if the contractor does not, and substantial performance bonds, which the state may call upon in the event of contractor default. Treasury contracts also allow the state to pay subcontractors direct if a genuine payment entitlement has been withheld from the main contractor. That is one of the key reasons our focus here has been on the Building Management and Works projects, as I said before, over the value of $1.5 million, up to around $100 million.

Another point raised today concerned Professor Evans' recommendation that section 4(3)(c) be amended to bring the construction of extracting and processing plant within the jurisdiction of the act. I think the member for Mirrabooka asked about that. The reason it was not supported is in the government's response to that report. It states —

> The Government does not accept this recommendation. The construction of processing plant is considered highly specialised and is not usually carried out under typical construction contracts. However, further work will be undertaken by the Building Commission to assess whether amendments could be made to better align the Act with judicial findings on the scope of the exempted activities.

In short, it is saying not at this stage, let us stick to what we know construction is and we will look at that over time.

Another recommendation is that the act be amended so that construction contracts are to be in writing. The government did not support that because it considers that amending the act to require construction contracts to be in writing will place unnecessary restriction on the freedom of parties to contract as they see fit. The government is concerned also that in instances in which an oral contract is used, statutory protections afforded by the act to the parties would be removed and that is considered an undesirable outcome. As I said before, members can find all the government's responses to those various recommendations.

Another question was about education and how the sector will be informed of and educated on the changes. I am advised that the Building Commission will commence training sessions in metropolitan regional locations on the amended Construction Contracts Act. It will aim the sessions at subcontractors and they will commence in December 2016. The Building Commission is making changes to its online material to provide information on the Construction Contracts Act and rapid adjudication process. The Building Commission will also have a dedicated phone line for information on the Construction Contracts Act for subcontractors.

In conclusion, the Construction Contracts Amendment Bill will further improve the operation of the Construction Contracts Act. It will aim to, and should, help keep the money flowing in the contracting chain in the building and construction industry in Western Australia. It supports those other key reforms that we are progressing as a government and that will improve the security of payment for operators in the building and construction industry. Having listened to the concerns of the subcontractors and their stakeholders, the Liberal–National government is taking effective action to encourage better industry behaviour and to implement enhanced payment protection for those subcontractors across the building and construction sector in this state.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Ms J.M. FREEMAN: I think it is appropriate to ask this question at clause 1 of the Construction Contracts Amendment Bill. The bill was based on a statutory review by Professor Evans. Was the statutory review a provision of the Construction Contracts Act 2004? Will it be an ongoing, regular review? A consequence of that review was this bill and therefore the short title. Is that something that is simply done on the decision of government or is there a regular review period?

Mr S.K. L'ESTRANGE: The short answer is yes. With regards to the review of the act, the act states —

> As soon as practicable after the 5th anniversary of its commencement, the Minister must review the operation and effectiveness of this Act and prepare a report about the review.

Ms J.M. FREEMAN: The answer is yes, it will happen five years later. Will there be a subsequent five-year review? Now that a review has been done and this Construction Contracts Amendment Bill has been introduced on the basis of it, are there any more statutory requirements for a subsequent review?

The ACTING SPEAKER (Mr I.M. Britza): I remind everyone concerned that questions must be about the short title of the bill. It is not a debate at this point.

Mr S.K. L'ESTRANGE: There are no more statutory requirements with regards to that review. However, we are going to move forward with a second package of amendments at a later stage to further enhance what we are trying to achieve through this bill.

Clause put and passed.

Clause 2: Commencement —

Ms J.M. FREEMAN: The bill has three operation dates. The short title and commencement come into operation on the day of royal assent. The rest of the bill comes into operation on 15 December 2016, and sections 7 and 20 come into operation on 3 April. I have a couple of questions. My first question is: what will happens if the date of royal assent is after 15 December in the case of paragraph (b), or after 3 April in the case of paragraph (c)? Does that mean that those particular aspects of the act will be retrospective?

Mr S.K. L'ESTRANGE: The advice I am given is that royal assent will occur prior to those dates.

Ms J.M. FREEMAN: Is it anticipated that the minister will get this bill through this house either tonight or tomorrow, and then up to the Legislative Council? In order to get royal assent before those dates, given that we have only three more weeks of sitting in the Legislative Council, and 15 December is bearing down on us as we stand in this Parliament, can the minister give the time line for how that will occur before 15 December?

Mr S.K. L'ESTRANGE: I am advised that the intention of the government is to make sure this is concluded during this session of Parliament.

Ms J.M. FREEMAN: I am asking for a time line. I want to know what the time line is. I am happy to sit down if the minister can give me a time line, otherwise I will get out my diary and look at it. The government has three weeks of sitting left. What time line is the minister envisaging for getting this bill through this house?

Mr S.K. L'ESTRANGE: It is certainly the government's intention to get this bill through this house this week. As the member would know, it is entirely dependent on the cooperation of the opposition in the upper house to ensure that we can get this bill through the upper house before it rises for the summer break. That is our intent. That is what we are endeavouring to do.

Ms J.M. FREEMAN: The minister and the Leader of the House have a majority in the Legislative Council. The opposition agrees with this bill, and we have not had many members speak today on this bill so that it can proceed through this house quickly. Will the government be seeking to have this bill dealt with in the other place as an urgent bill, or is it expected that this bill will lay on the table of the house for the seven days for which it needs to lay on the table in that first week? I want to understand that the minister will be able to meet the dates that he has set for this bill, because those dates are very particular. Clause 2 states —

> This Act comes into operation as follows —
>
> …
>
> (b) the rest of the Act other than sections 7 and 20 — on15 December 2016;
>
> (c) sections 7 and 20 — on 3 April 2017.

Perhaps the minister can take advice from the Leader of the House on what agreement he had made to ensure that this bill is expedited in the other place. The opposition agrees with the bill. However, it is the government that sets the legislative agenda in the upper house, as it does in this house.

Mr S.K. L'ESTRANGE: The Leader of the House has informed me that this is a high-priority bill. The sooner we can get onto clause 3, the sooner we can get the bill to the upper house.

Mr J.H.D. Day: We need to reach the end of consideration in detail tonight, so you can assist in doing that.

Ms J.M. FREEMAN: When have I not assisted the minister? I have always assisted him. If he speaks to me like that, I will stop assisting him. He does that to me every time.

Mr J.H.D. Day interjected.

The DEPUTY SPEAKER: Order!

Ms J.M. FREEMAN: It is like a red rag to a bull. He comes over and makes comments to me. He is so rude!

Mr J.H.D. Day: I did not say you were not assisting. I said you can assist, and please feel free.

Ms J.M. FREEMAN: No, minister.

The DEPUTY SPEAKER: Order, members! It is late. Let us get back to the question at hand.

Ms J.M. FREEMAN: I know from the commencement clause of this bill that the rest of the provisions of the bill, other than proposed sections 7 and 20, will commence on 15 December 2016. Proposed sections 7 and 20 will commence on 3 April 2017. For the record, and so it is understood, because that is important for the interpretation of the bill, can the minister explain why proposed sections 7 and 20 have to commence some four or five months after the rest of the proposed sections?

Mr S.K. L'ESTRANGE: The government considers that the commencement on 3 April 2017 will provide a sufficient opportunity for business to prepare for the change. Clause 20 of the bill provides a transitional provision to accommodate the proposed change in clause 7 to section 10 of the Construction Contracts Act. Therefore, it is necessary that this also commences operation on 3 April 2017.

Clause put and passed.

Clause 3: Act amended —

Ms J.M. FREEMAN: This act amends the Construction Contracts Act. In the minister's second reading speech he talked about the Small Business Commissioner having carriage of parts of that act. I want the minister to clarify whether that act is under the jurisdiction of Small Business Development Corporation or the Department of Commerce. Which department has oversight of this act? Under the definitions in the act, when the bill refers to "Building Commissioner", it means —

> … the officer referred to in the *Building Services (Complaint Resolution and Administration) Act 2011* section 85;

The Building Commissioner, as I understand, is an officer within the Consumer Protection departmental area. I am intrigued and slightly confused about where there is a role for the Small Business Commissioner under this amended act, given the minister's second reading speech. Given that this bill amends the Construction Contracts Act, when this bill is enacted, who will have primary responsibility for ensuring its proper operation and that it meets the stated aims and intent of the act?

Mr S.K. L'ESTRANGE: The member is quite right that the Small Business Development Corporation's commissioner or the Small Business Commissioner has a role to play as part of the government's overarching package or its suite of measures dealing with how to support and protect subcontractors' security and speed of payment. But the Small Business Commissioner has no role under the Construction Contracts Act as amended by this bill. The responsible minister for the act is the Minister for Commerce and the Building Commissioner will have administrative oversight of the act.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Section 4 amended —

Ms J.M. FREEMAN: I may have misheard, given the time in the evening, but the minister talked about the fact that this clause does not change the reference to the processing of oil or natural gas, or a derivative of natural gas or any mineral bearing substance. That is certainly how I heard it. I see here that section 4 is to be amended so that refers to the fabricating or assembling items of plant used for extracting or processing oil, natural gas or a derivative of natural gas or any mineral bearing and other substance. I am interested in getting on record what the difference is. I understand this is connected with a State Administrative Tribunal case. I have not had an opportunity to look at that case, although I think the shadow spokesperson in the other house has received the details, so she may have had an opportunity. I am interested to know why this was necessary. What was the particular issue that that case highlighted? Why is this needed to resolve that issue, and what clarification will this make to the jurisdiction of this act?

Mr S.K. L'ESTRANGE: I am advised that Professor Evans recommended the removal of section 4(3)(c) of the act in its entirety. However, the government believes that the scope of the exemption should be refined rather than removed entirely to better clarify the type of work that is excluded. Parties to contracts and adjudicators have been unsure whether the use of plant in section 4(3)(c) is intended to refer to individual items of equipment that form part of a larger project, for example, a catalytic cracker within an oil refinery, or the whole of the project—the oil refinery itself. That is the reason we made that exclusion.

Ms J.M. FREEMAN: I am assuming that the removal of the exemption for sculptural works, installations and murals has been done to make sure that Sculptures by the Sea is captured by the act. Section 4(3)(d) states —

> constructing, installing, altering, repairing, restoring, maintaining, extending, dismantling, demolishing, or removing, wholly artistic works, including sculptures, installations and murals;

Can the minister confirm that that would mean that something like Sculptures by the Sea is considered for the purposes of the Construction Contracts Act, and perhaps clarify why this was found necessary?

Mr S.K. L'ESTRANGE: We are talking here about construction projects. We are not talking about art exhibitions. Professor Evans identified that determining the limits of construction work that is artistic has proven quite problematic and that this has become more so as more artistic works, sculptures and features are included within the design of a building or affixed to the building. That is the reason we are now including those types of construction products, which some may view to be artistic, to be part of the Construction Contracts Act.

Clause put and passed.

Clause 6: Section 6 amended —

Ms J.M. FREEMAN: I understand that clause 6 relates to payments that are structured —

[Interruption.]

Ms J.M. FREEMAN: It is not mine!

The DEPUTY SPEAKER: What is that sound?

Ms J.M. FREEMAN: It is the member for Hillarys' Find My iPhone alert; he is trying to find his iPhone!

Several members interjected.

The DEPUTY SPEAKER: Order, members!

Ms J.M. FREEMAN: As I understand clause 6, in contracts, there are a series of progress payments as the contract goes along. The difficulty for subcontractors is that if they miss one progress payment dispute period when they could pursue something, they will lose the capacity for a speedy resolution adjudication. The subparagraph states —

> (aa) a payment claim is rejected or wholly or partly disputed; or

This change is so that subcontractors can go back and include that in the dispute within the designated period. For the purpose of the record, it is probably worthwhile for the minister to clarify whether my understanding is correct, but I am okay if it is not.

Mr S.K. L'ESTRANGE: I am advised that the amendment clarifies that a payment dispute arises at the earliest when the payment claim is rejected, or wholly or partly disputed; or, by the time the amount claimed is due to be paid under the contract, and the amount has not been paid in full.

Ms J.M. FREEMAN: That is what the act says, minister. I can read the act! I am pretty good at reading acts. I have been reading acts for a long time; I am pretty good at it, but thanks for that. I want the minister to tell me whether this clause provides that if there are progress payments and a progress dispute is not dealt with within 28 days—or what will now be 90 days—a subcontractor will not be prejudiced against when they have flicked over to a further progress payment period. If a subcontractor has a progress payment dispute and the contractor says, "No, no, you probably haven't done a few things that you're supposed to do", they may keep going until their next progress payment, but they have still not received their progress payment. Under the previous legislation, I understand that the subcontractor would not be able to pursue that under the speedy adjudication process but this change has been made so that they can pick up a progress payment dispute further on. I can read what the clause says; I am good at reading. I want the minister to tell me the purpose and the intent of the amendment.

Mr S.K. L'ESTRANGE: I am advised that clause 3 probably best addresses what the member is asking. Clause 6 is there to support clause 3 to enable anything —

Ms J.M. Freeman: Subclause 3?

Mr S.K. L'ESTRANGE: No, clause 3.

Ms J.M. Freeman interjected.

Mr S.K. L'ESTRANGE: Sorry, I am advised that is a mistake; it is clause 4(2)(b).

Ms J.M. FREEMAN: Subclause (2)(b) has not been amended. Yes, I understand what the minister is saying. I am talking about the amendment to the definition. For clarification, clause 6 supports clause 4, but of course it would because the payment dispute is defined in clause 4. The payment claim is defined. That is the definition and clause 6 is the mechanism for that definition. Is that what the minister is saying?

Mr S.K. L'ESTRANGE: That is correct.

Clause put and passed.

Clause 7: Section 10 amended —

Mr S.K. L'ESTRANGE — by leave: I move —

Page 4, line 21 — To delete "30" and substitute —

42

Page 4, line 25 — To delete "**30**" and substitute —

42

Ms J.M. FREEMAN: I probably agree with the amendments but I want to know why. If the minister is going to move amendments, it would be good to understand them. This clause will ensure that a head contractor cannot say that subcontractors will not be paid for 50 days. We could call this the Rio Tinto and BHP Billiton clause, because it will address the problems that many subcontractors had when Rio and BHP told them that although they had previously paid their invoices within 30 days, they would now pay them within 50 days, as outlined in the act. That made it untenable for people to operate. I understand the purpose of deleting "30", but what I do not understand, if I am at the right spot—am I at the right spot, minister?

Mr S.K. L'Estrange: I can explain the reason for the change if you like. We are on clause 7.

The DEPUTY SPEAKER: We are dealing with clause 7 and the amendments are on page 9 of the notice paper.

Ms J.M. FREEMAN: Clause 7 amends section 10 and deletes "50 days" and inserts "30 days".

Mr S.K. L'Estrange: We are changing "30" to "42".

Ms J.M. FREEMAN: I am looking at the wrong bit, clearly. It would be good to know why it is being changed to 42 days, given that 30 days is usually the period in which invoices are paid. It was to be reduced by 20 days but now it will be reduced by eight days, not 10. How will that assist small businesses and subcontractors, and what consultation has been undertaken to change it to 42 days? Forty-two days is really odd. It is like the meaning of life, is it not—42? Is it because the minister took the idea from *The Hitchhiker's Guide to the Galaxy*?

Mr S.K. L'ESTRANGE: I thank the member for the question; it is a very good question. On 12 August when I announced the government's suite of measures to support business and subcontractors, I announced that it would be 30 business days. Thirty business days equates to 42 calendar days; hence the 42. We then tried to achieve a further reduction. Industry was looking for 30 business days. We tried to achieve more by getting it down to 20 business days. That proved problematic with the functioning of project bank accounts. We have moved this amendment to change it back to 30 business days so that the program we are trying to achieve can work. Thirty business days is the industry standard. That was what we originally consulted on and that is what industry was expecting. I suppose I could say that the Liberal–National government was overzealous in trying to get it down to 30 calendar days. We have realised that it cannot be done and that in the long term the business sector will be disadvantaged, because compressing it to that amount of time would have meant that project bank accounts probably would not have worked and therefore the subcontractors would not have been as well supported as they could have been; hence the need to move to 42 calendar days. Throughout this bill and the act, whenever there is a reference to disputes, it is termed in business days anyway.

Ms J.M. FREEMAN: There is an application for adjudication and it goes to 90 business days. The minister has just told me that there will be the number of the meaning of life, 42, which is not a number of days that most accountants and people in business equate to accounting standards. It is usually 30 business days. Why in the amendment to section 10 of the act is there not a reference to 30 business days instead of 42 calendar days, which equates to 30 business days. It seems quite bizarre, to tell the truth, on the basis that when a person applies for adjudication, business days are referred to. Why would such a complexity be added to a bill about which the government's own investigator has said there needed to be better education and understanding in the community? It makes no sense.

Mr S.K. L'ESTRANGE: The amendment the government is making to section 3 of the act is to insert a new definition of "business day" to include any day other than a weekend, public holiday or the period between Christmas and 7 January. If business days were to be used in section 10, the maximum payment term prescribed by the legislation would fluctuate depending on when the work is being done, hence the need to go to business days.

Ms J.M. Freeman: No, hence not to go to business days in the case of the 42 days. I am getting a nod from the minister.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 8 to 12 put and passed.

Clause 13: Section 32 amended —

Ms J.M. FREEMAN: This clause is about the adjudication process. This amendment deletes section 32(3)(c) from the act, which states —

> with the consent of all the parties concerned, adjudicate the payment dispute simultaneously with another payment dispute.

And replaces it with —

> adjudicate a payment dispute simultaneously with one or more other payment disputes if satisfied that doing so will not adversely affect the adjudicator's ability to adjudicate the disputes in accordance with section 30.

I seek clarification about the reasons for that amendment in terms of the adjudicator and the object of the adjudication process. I assume that the intention is that there continues to be speedy dispute resolution.

Mr S.K. L'ESTRANGE: That is correct. I am advised that Professor Evans recommended that when the same parties have multiple payment disputes, the current requirement for the adjudicator to obtain consent to adjudicate the dispute simultaneously should be removed. The government supports the recommendation, as it relates to other payment disputes, for example when there are more than two different applicants, but one respondent, provided that the adjudicator is satisfied that it would not adversely affect their ability to determine each dispute as fairly, quickly, informally and inexpensively as possible. This clause gives effect to this recommendation.

Clause put and passed.

Clauses 14 to 16 put and passed.

Clause 17: Section 43 amended —

Ms J.M. FREEMAN: This clause is about enforcement of judgements. Obviously enforcement has been difficult because parties were required to seek leave of a court. Will this ensure that such leave is not necessary and enforcement is a right? I assume that "the court of competent jurisdiction" is not the State Administrative Tribunal, but is based on the amount of the determination. Could the minister give me an overview of the impact of these changes and which court jurisdiction enforcement will fall under?

Mr S.K. L'ESTRANGE: The member is correct that the court is based on the amount of the determination; therefore, it could be the Magistrates Court, District Court or the Supreme Court. The member wanted me to explain the reason for this change. I am advised that Professor Evans recommended that the requirement in section 43(2) of the Construction Contracts Act to first seek leave of the court of competent jurisdiction to have a determination in force added unnecessary delay for parties and increased complexity and legal costs. It also provided an opportunity for a respondent to frustrate the enforcement process by arguing myriad reasons the court should not grant leave, ultimately delaying the payment of money owing. This clause seeks to rectify this issue.

Clause put and passed.

Clauses 18 to 20 put and passed.

Title put and passed.

House adjourned at 10.33 pm

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QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ABORIGINAL AFFAIRS — HERITAGE MANAGEMENT

5838. Mr B.S. Wyatt to the minister representing the Minister for Aboriginal Affairs:

(1) I refer to the key efficiency indicators for the Department of Aboriginal Affairs (DAA) with respect to Heritage Management, and I ask:

(a) what was the actual average processing time per statutory approval request granted by the DAA for the 2015–16 financial year:

(i) is this in-line with the estimated actual of 98 days reported in Budget Paper One of the 2016–17 State Budget;

(ii) what methodology did the DAA use to estimate the actual average time for the completion of statutory approvals for the 2015–16 financial year and will the Minister table the data used to derive this estimate;

(iii) for requests for statutory approval completed for the period from 1 July 2015 up until May 2016:

(A) how many requests were approved; and

(B) how many days did each request take; and

(iv) for requests for statutory approval completed for the period from May 2016 until 30 June 2016:

(A) how many requests were approved; and

(B) how many days did each request take; and

(b) will the Minister table the employee perceptions survey undertaken within the DAA and if not, why not?

(2) I refer to the "Estimated Actual Key Effectiveness Indicators" published in the 2016–17 State Budget in relation to the percentage of direct stakeholders satisfied with the services provided by the DAA in relation to the management of Aboriginal Heritage, estimated to sit at 80 per cent, and I ask:

(a) can the actual figure now be confirmed:

(i) if yes, what is it; and

(ii) if not, why not?

Mr J.H.D. Day replied:

(1) (a) (i) The average processing time per statutory approval was 106 days. Two section 18 applications were unable to be progressed in a timely manner because they were associated with the Marapikurrinya Yintha site that had not been progressed earlier due to the complexities following the legal challenge involving the site. If the two applications are excluded from the figures, then the average days for processing section 18 applications was 95, an improvement on the estimated 98 days reported in Budget Paper One.

(ii) The figures provided are calculated from the total processing time of section 18 applications, which begins from the advertised closing date for submissions for an Aboriginal Cultural Material Committee meeting, to the date the Minister makes his decision. The figures provided above are from the same source used to calculate section 18 processing figures that were tabled in the Department of Aboriginal Affairs Annual Report on 22 September 2016.

(iii)–(iv) [See tabled paper no 4795.] The graph shows that for the 2016 calendar year, section 18 average completion days for four of the five months were well below the estimated 98 days.May 2016 was the only month for the 2016 calendar year where processing days exceeded the estimated 98 days. This was due to the consideration at the May 2016 Aboriginal Cultural Material Committee meeting of two section 18 notices associated with the Marapikurrinya Yintha site that had not been progressed earlier due to the complexities of the legal challenge involving the site.

(b) No. I am advised that the Public Sector Commission is the owner of the Employee Perception Survey.

(2) (a) Yes.

(i) The actual stakeholder satisfaction rate was 72 per cent, seven percent above the target.

(ii) Not applicable.

MINISTER FOR MENTAL HEALTH — PORTFOLIOS — BUSINESS SCAM

5840. Mr B.S. Wyatt to the Minister for Mental Health; Child Protection:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Ms A.R. Mitchell replied:

Child Protection

(a) The Department for Child Protection and Family Support advises it has not been effected by reported scammers.

(b)–(e) Not applicable.

Mental Health

(a)–(d) The Mental Health Commission (MHC) advises it operates under a Service Level Agreement with WA Health for the provision of Corporate Services from Health Support Services including the management of payments from the MHC bank account and controls over Supplier details entered in to the Oracle Vendor data base.

WA Health has advised the following:

The Chief Finance Officer of the Department of Health has not been informed of an occurrence such as the scam outlined in the media report.

(e) Following advice provided to the Department of Health by the Department of Commerce on 18 August 2016 in respect of the scam outlined in the media report, an internal review was undertaken of the processes and controls in place to change the bank account details of suppliers and contractors.

The review identified that:

> There are inbuilt controls within the iProcurement payment system to ensure that requisitions and purchase orders are raised, and payments are authorised by officers with the appropriate authority.
>
> A monthly review of the log of changes to the vendor master file is undertaken, to detect if unauthorised changes have been made.To provide assurance on whether WA Health has been impacted by the scams recently identified in the media, the Department of Health's Internal Audit has been asked to undertake an urgent review of all changes to bank account details within the past six (6) months, and make an assessment of whether current processes and controls in place are effective in detecting and preventing such scams.
>
> As an additional measure to address this scam risk a secondary validation check is now required to be undertaken by authorised officers at Health Support Services. This involves confirmation and verification that requests for changes to bank account details are genuine, prior to making any changes to the vendor master file.

MINISTER FOR PLANNING — PORTFOLIOS — BUSINESS SCAM

5841. Mr B.S. Wyatt to the parliamentary secretary representing the Minister for Planning; Disability Services:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mr J. Norberger replied:

Metropolitan Redevelopment Authority

(a) No.

(b)–(d) Not applicable.

(e) Changes to supplier bank account details are subject to a high level of scrutiny before being actioned. Detailed audit trails of any bank account changes are provided to senior Financial Management, including the Chief Financial Officer, as they occur.

Disability Services Commission

(a) No.

(b)–(d) Not applicable.

(e) The Commission has the following processes in place to ensure that public funds are not lost to scammers:

Verification and authorisation of each invoice to ensure its validity, including the delivery of expected goods or services where applicable.

Routine cross-checking of Supplier Audit Trail reports by Senior Accounts Payable Officers prior to the processing of any payments.

Bank account details held on Disability Services Commission (the Commission) files are utilised for payment to known suppliers, irrespective of details provided on individual invoices.

Background checks are undertaken to verify the details of new suppliers, involving independent verification of the supplier's Australian Business Number (ABN) and Bank / State/ Branch (BSB) number, and contact is then made with the supplier to confirm bank details. Background checks are documented and signed by staff for audit purposes.

Senior staff personally contact suppliers' senior personnel using existing, established contact details to confirm any requests for changes to bank account details. Where changes are requested, the Commission requires organisations to provide verifiable documentation to support the request.

The Commission has advised staff of the scam and directed employees to exercise increased diligence when processing payments

Department of Planning

(a) No.

(b)–(d) Not applicable.

(e) Notices of scammer activities have been circulated among accounts payable staff to promote awareness of the issue. In addition, processes have been put in place to ensure that all requests to accounts payable staff are independently verified prior to any changes being made to account details.

MINISTER FOR AGRICULTURE AND FOOD — PORTFOLIOS — BUSINESS SCAM

5844. Mr B.S. Wyatt to the Minister for Agriculture and Food; Transport:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mr M.W. Lewis replied:

The Department of Agriculture and Food advises:

(a) No, the Department of Agriculture and Food (DAFWA) has not fallen victim to this scam.

(b)–(d) Not applicable.

(e) DAFWA has undertaken a review of the processes that have been targeted by the scammers and strengthened the controls around bank transfers and supplier creations. The Financial Management manual has been updated to include a reference to the potential of scam emails/letters of this sort being received by the department.

The Department of Transport advises:

(a) No.

(b)–(e) Not applicable.

Main Roads Western Australia advises:

(a) No.

(b)–(e) Not applicable.

The Public Transport Authority advises:

(a) No.

(b)–(e) Not applicable.

The Kimberley Ports Authority advises:

(a) No.

(b)–(e) Not applicable.

The Pilbara Ports Authority advises:

(a) No.

(b)–(e) Not applicable.

The Mid-West Ports Authority advises:

(a) No.

(b)–(e) Not applicable.

The Fremantle Ports Authority advises:

(a) No.

(b)–(e) Not applicable.

The Southern Ports Authority advises:

(a) No.

(b)–(e) Not applicable.

ATTORNEY GENERAL — PORTFOLIOS — BUSINESS SCAM

5848. Mr B.S. Wyatt to the minister representing the Attorney General; Minister for Commerce:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mrs L.M. Harvey replied:

Corruption and Crime Commission

(a) No.

(b)–(d) N/A.

(e) Internal finance procedures and adherence to taxation law prevent transfers of money via an email request. Any request to change a bank account is verified by telephoning the supplier for confirmation of the change. The supplier's telephone number is sourced from the White Pages, not from the invoice that may have been tampered with, preventing a fraudulent number being used.

Commissioner for Children and Young People

(a) No.

(b)–(d) N/A.

(e) All invoices are checked against a Request to Purchase form, if there is no Request to Purchase, the invoice is investigated further. Invoices are cross-checked against the operating budget. Each invoice to be paid is signed off by two people.

Department of Commerce

(a) No.

(b)–(d) N/A.

(e) The Department of Commerce recognised the serious nature of the sophisticated 'man in the middle' scam and warned the public through a well-publicised media statement on

17 August 2016.

The Department of Commerce, the Small Business Development Corporation and the Western Australia Police also alerted businesses, not-for-profit organisations and the wider community through joint communication. This included extensive use of social media.

The Director General of the Department of Commerce wrote directly to all Directors General and Local Government Chief Executives alerting them to the aspects of the 'man in the middle' scam. The Department of Local Government and Communities immediately issued a bulletin to all local government authorities. The Public Sector Commissioner then followed this messaging with a further notification to all agencies, reinforcing the issues associated with the potential infiltration of this scam and the importance of awareness and preventative measures.

Department of the Attorney General

(a) No.

(b)–(e) N/A.

Office of the Director of Public Prosecutions

(a) No.

(b)–(e) N/A.

Equal Opportunity Commission

(a) No.

(b)–(d) N/A.

(e) The Commission has an internal approval process for all expenditure which would ensure sufficient checks are in place to ensure the safety of public funds.

Office of the Information Commissioner

(a) No.

(b)–(d) N/A.

(e) The Office of the Information Commissioner's (OIC) Information Technology Manager keeps abreast of current scams and forwards all advice to staff. Invoices paid by OIC are regular and unchanging, making 'unusual' invoices unlikely to be paid without question. All invoices are entered into a register before payment to avoid double payments and ensure the invoice is properly checked before payment is arranged.

Legal Aid

(a) No.

(b)–(e) N/A.

Legal Practice Board of Western Australia

(a) No.

(b)–(e) N/A.

Legal Profession Complaints Committee

(a) No.

(b)–(e) N/A.

Solicitor General's Office

(a) No.

(b)–(e) N/A.

The Department of the Registrar, WA Industrial Relations Commission

(a) No.

(b)–(d) N/A.

(e) The Department's ICT section utilises advanced Web filters to capture Scam emails. Simultaneously, payment thresholds exist across different levels of senior management and there are stringent financial controls across the Department which require authorisation of any payments or invoices to be endorsed by senior management, utilising these strict financial protocols.

Further, any unusual or unexpected requests for payments or expenditure are required to be brought to the attention of senior management and the Chief Executive Officer. If required, authenticity of emails are verified by the ICT section.

WorkCover

(a) No.

(b)–(d) Not applicable.

(e) WorkCover WA has strong manual and system controls embedded within its financial processes, including:

written policies and procedures contained within a comprehensive accounting manual;

dual signatories for supplier payment authorisation and approval; and

supplier call back verification for any requested changes to bank account details.

The above processes are subject to regular audit by both internal audit (KPMG) and the Office of the Auditor General.

MINISTER FOR STATE DEVELOPMENT — PORTFOLIOS — BUSINESS SCAM

5849. Mr B.S. Wyatt to the Minister for State Development; Finance; Innovation:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mr W.R. Marmion replied:

The Department of State Development advises:

(a) Nil.

(b)–(d) Not applicable.

(e) The Department of State Development has procedures in place to ensure payments are only made to bona fide companies who have provided requested goods and/or services to the Department.

The Office of the Government Chief Information Officer advises:

(a) Nil.

(b)–(d) Not applicable.

(e) The Office of the Government Chief Information Officer has appropriate risk analysis and financial procedures in place to ensure that the release of funds are correct.

The Department of Finance advises:

(a) Nil.

(b)–(d) Not applicable.

(e) The Department of Finance has a verification process in place for all external requests involving public funds. All updates to financial information requested or provided by external parties are verified before use.

MINISTER FOR HEALTH — PORTFOLIOS — BUSINESS SCAM

5851. Mr B.S. Wyatt to the Minister for Health; Culture and the Arts:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mr J.H.D. Day replied:

Animal Resources Authority (ARA)

(a) No.

(b)–(d) Not applicable.

(e) The ARA use standard operating procedures outlined in their accounting manual to mitigate potential misappropriation of agency funds.

Department of Health

(a) No scams of this nature have been identified.

(b)–(d) Not applicable.

(e) Following advice provided by the Department of Commerce on 18 August 2016 regarding the scam outlined in the media report, an internal review was undertaken of the processes and controls in place to change the bank account details of suppliers and contractors.

The review identified that:

there are inbuilt controls within the iProcurement payment system to ensure that requisitions and purchase orders are raised, and payments are authorised by officers with the appropriate authority; and

a monthly review of the log of changes to the vendor master file is undertaken, to detect if unauthorised changes have been made.

As an additional measure to address this scam risk, a secondary validation check is now required to be undertaken by authorised WA Health officers. This involves confirmation and verification that requests for changes to bank account details are genuine, prior to making any changes to the vendor master file.

Healthway

(a) No.

(b)–(d) Not applicable.

(e) Controls are in place to verify payments and bank account details. This includes contacting organisations to confirm any changed bank account details.

Health and Disability Services Complaints Office

(a) No.

(b)–(d) Not applicable.

(e) Controls are in place to verify payments for the provision of goods and/or services to HaDSCO. Any changes to bank account details are checked as part of the authorisation process.

Culture and the Arts Portfolio

(a) No.

(b)–(d) Not applicable.

(e) Any requests received to change the bank account details of suppliers require relevant supporting documentation prior to the processing of payments. Invoices including bank details are checked and approved by the accountable authority before payment is completed.

All of the invoices received by the Finance Support Team are electronically approved by the agency before payment is processed. The finance processing officer checks the bank account details on the invoice against the account details listed in the finance system before processing invoices. If there is a discrepancy to the bank account between the finance system and the invoice the agency is informed and they are required to investigate. If changes are validated the agency must complete a supplier maintenance form so that the finance system is updated.

MINISTER FOR EDUCATION — PORTFOLIOS — BUSINESS SCAM

5852. Mr B.S. Wyatt to the minister representing the Minister for Education; Aboriginal Affairs; Electoral Affairs:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mrs L.M. Harvey replied:

Department of Aboriginal Affairs

(a) No.

(b)–(d) Not applicable.

(e) The Department of Aboriginal Affairs has several robust financial controls to ensure appropriate use of public funds, including electronic approval, separation of duties, ongoing monitoring and reporting, regular reconciliation and acquittal of all financial transactions. The Department also circulates, to appropriate personnel, details of known scams as they come to light through various information networks.

Department of Education

(a) No.

(b)–(d) Not applicable.

(e) The Department of Education ensures the appropriate use of public funds through its financial control framework that includes reconciliation of financial transactions, electronic approvals, separation of duties and ongoing monitoring and reporting. Details of known scams are circulated internally to appropriate personnel. The Department of Commerce, Consumer Protection alert letter on this issue was circulated within the Department of Education on 23 August 2016.

Country High School Hostels Authority

(a) No.

(b)–(d) Not applicable.

(e) The Country High School Hostels Authority ensures the appropriate use of public funds through its financial control framework that includes reconciliation of financial transactions, electronic approvals, separation of duties and ongoing monitoring and reporting. Details of known scams are circulated internally to appropriate personnel. The Department of Commerce, Consumer Protection alert letter on this issue was circulated within the Country High School Hostels Authority on 23 August 2016.

Department of Education Services

(a) No.

(b)–(d) Not applicable.

(e) The Department of Education Services has implemented a number of internal financial controls to ensure the appropriate application of both controlled and administered public funds. This includes electronic transaction approval by a minimum of two officers, an appropriate level of segregation of duties, ongoing monitoring and reporting of potential irregular transactions, monthly financial reconciliations and regular acquittal of all financial transactions. The Department also circulates to the relevant personnel, details of any known scams as they are advised by other agencies or our banking partners via various information networks.

School Curriculum and Standards Authority

(a) No.

(b)–(d) Not applicable.

(e) The School Curriculum and Standards Authority has strong financial controls to ensure the appropriate use of public funds. These include electronic approval for reimbursement, separation of duties, ongoing monitoring and reporting, regular reconciliation and acquittal of financial transactions. The School Curriculum and Standards Authority also circulates, to appropriate personnel, details of known scams as they come to light through various information networks.

Western Australian Electoral Commission

(a) No.

(b)–(d) Not applicable.

(e) The Western Australian Electoral Commission has strong controls in place to guard against bogus invoices including electronic approval and reconciliation of invoices against requisitions with double checking of all payments. The Commission's finance and IT staff are notified of known scams and suspicious invoices are appropriately investigated.

PREMIER — PORTFOLIOS — BUSINESS SCAM

5855. Mr B.S. Wyatt to the Premier; Minister for Tourism; Science:

I refer to the online news article published by the ABC online on 17 August 2016 in relation to scammers stealing $500,000 from West Australian businesses over the past two years as reported by the Department of Consumer Protection, and I ask:

(a) have any WA Government agencies within the Minister's portfolio of responsibility fallen victim to these scams over the past two years;

(b) if so which agencies have been impacted;

(c) for each agency impacted, what was the nature of, and the dollar amount lost in connection to each scam;

(d) have criminal charges been laid against any persons or entities in connection to these scams; and

(e) what measures have you taken to ensure that public funds are not lost to scammers via WA Government agencies?

Mr C.J. Barnett replied:

The Public Sector Commission, Lotterywest, Salaries and Allowances Tribunal and Rottnest Island Authority advise:

(a) Nil.

(b)–(e) Not applicable.

The Department of the Premier and Cabinet advises:

(a) No.

(b)–(d) Not Applicable.

(e) The Department of Premier and Cabinet has a ICT cyber security services and employee awareness program. In addition, the Department's financial approval process provides the checks and balances to ensure that only legitimate payments are processed.

ChemCentre advises:

(a) No.

(b)–(d) Not Applicable.

(e) ChemCentre requires two authorisations prior to a payment being made from ChemCentre's bank account. In addition, ChemCentre has a sophisticated internal control system to ensure the duties are segregated and appropriate authorisation is in place. Also, the change of bank details can only be performed by a senior finance officer in the system. Any requested change of bank details from suppliers will be confirmed by two employees from ChemCentre to ensure the request is authentic.

Gold Corporation

(a) No.

(b)–(d) Not Applicable.

(e) An effective internal control environment is operating at Gold Corporation which is subject to internal and external audit procedures.

Tourism

(a) No.

(b)–(d) Not Applicable.

(e) Increased employee training, additional and enhanced email filters (software), and a review of payment processes.

HEALTH — PERTH CHILDREN'S HOSPITAL — WETTED SURFACES COMPLIANCE

5857. Mr D.J. Kelly to the Minister for Health:

I refer to the new Children's Hospital, and ask: do all wetted surfaces of all components [e.g. pipes, valves, fittings, pumps, tanks, outlets] forming parts of the potable water network, both underground and aboveground within the site comply with the requirements of the Australian Standard AS 3500 Part 1 in terms of materials and products, and further that certification to the Australian Standard AS 4020 is available for all the components to ensure full compliance with Volume 3 of the National Construction Code and the Australia Drinking Water Guideline?

Mr J.H.D. Day replied:

Please refer to answer to Legislative Assembly question on notice 5856

TRANSPORT — MELTHAM AND MT LAWLEY TRAIN STATIONS

5858. Ms L.L. Baker to the Minister for Transport:

Is the Government considering ceasing train services to Meltham or Mount Lawley Train Stations within the next five years, and if yes:

(a) when will the community be consulted about this decision; and

(b) when will these train stations be closed?

Mr W.R. Marmion replied:

The Public Transport Authority advises:

The Government is not currently considering any proposals to reduce train services to these train stations.

(a)–(b) Not applicable.

TRANSPORT — MELTHAM AND MT LAWLEY TRAIN STATIONS

5859. Ms L.L. Baker to the Minister for Transport:

Is the Government considering ceasing train services to Meltham or Mount Lawley Train Stations within the next 12 months, and if yes:

(a) when will the community be consulted about this decision; and

(b) when will these train stations be closed?

Mr W.R. Marmion replied:

The Public Transport Authority advises:

The Government is not currently considering any proposals to reduce train services to these train stations.

(a)–(b) Not applicable.

TRANSPORT — MIDLAND TRAIN LINE

5860. Ms L.L. Baker to the Minister for Transport:

Is the Government considering reducing train services to Bayswater, Maylands, Meltham or Mount Lawley Train Stations within the next five years, and if so:

(a) by how many trains per weekday will services be reduced to these stations?

Mr W.R. Marmion replied:

The Public Transport Authority advises:

The Government is not currently considering any proposals to reduce train services to these train stations.

(a) Not applicable.

TRANSPORT — MIDLAND TRAIN LINE

5861. Ms L.L. Baker to the Minister for Transport:

Is the Government considering reducing train services to Bayswater, Meltham, Maylands or Mount Lawley Train Stations within the next 12 months, and if yes:

(a) by how many trains per day will services be reduced to these stations?

Mr W.R. Marmion replied:

The Public Transport Authority advises:

The Government is not currently considering any proposals to reduce train services to these train stations.

(a) Not applicable.

DEPARTMENT OF STATE DEVELOPMENT — ORD–EAST KIMBERLEY DEVELOPMENT — AUDITOR GENERAL'S REPORT — BRIEFING

5867. Mr M. McGowan to the Minister for State Development:

I refer to the Auditor General's offer (on 2 September 2016) of a briefing to the Minister in relation to the Ord–East Kimberley Development Auditor General's Report – September 2016, and ask:

(a) what was the date of the briefing;

(b) did the Minister personally attend;

(c) did any staff from the Minister's office, other Ministers or staff from the offices of other Ministers attend; and

(d) if yes to what are the names of those persons?

Mr W.R. Marmion replied:

(a) Tuesday, 6 September 2016.

(b) No.

(c) Yes.

(d) Colin Edwardes (Chief of Staff) and Cam Fraser (Principal Policy Adviser State Development).

MENTAL HEALTH — ALCOHOL AND DRUG TREATMENT — GREAT SOUTHERN RESIDENTS

5868. Mr P.B. Watson to the Minister for Mental Health:

For the financial years 2014/15 and 2015/16 how many Great Southern residents accessed residential alcohol and drug treatment care in facilities across Western Australia?

Ms A.R. Mitchell replied:

In 2014/15, 18 rehabilitation treatment episodes commenced in Western Australian residential rehabilitation facilities for persons residing in the Great Southern area.

In 2015/16, 10 rehabilitation treatment episodes commenced in Western Australian residential rehabilitation facilities for persons residing in the Great Southern area.

TRAINING AND WORKFORCE DEVELOPMENT — PRIORITY TRAINEESHIP COURSES

5873. Mr F.M. Logan to the Minister for Training and Workforce Development:

As at 1 September 2016 could the Minister please provide:

(a) the current list of priority traineeship courses; and

(b) the current enrolment for each priority traineeship course?

Mrs L.M. Harvey replied:

(a)–(b) [See tabled paper no 4792.]

TRAINING AND WORKFORCE DEVELOPMENT — PRIORITY APPRENTICESHIP COURSES

5874. Mr F.M. Logan to the Minister for Training and Workforce Development:

As at 1 September 2016 could the Minister please provide:

(a) the current list of priority apprenticeship courses; and

(b) the current enrolment for each apprenticeship course?

Mrs L.M. Harvey replied:

(a)–(b) [See tabled paper no 4793.]

TRAINING AND WORKFORCE DEVELOPMENT — TAFE — PRIORITY DIPLOMA AND ADVANCED DIPLOMA COURSES

5875. Mr F.M. Logan to the Minister for Training and Workforce Development:

As at 1 September 2016 could the Minister please provide:

(a) the current list of priority diploma and advanced diploma courses at TAFE; and

(b) the current enrolment for each diploma and advanced diploma course?

Mrs L.M. Harvey replied:

(a)–(b) [See tabled paper no 4794.]

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