

**LITTER AMENDMENT BILL 2011**

*Second Reading*

Resumed from 8 August.

**MR W.R. MARMION (Nedlands — Minister for Environment)** [10.05 am] — in reply: I resume my response to the second reading debate on the Litter Amendment Bill 2011. I will commence by reminding members that the purpose of this bill is to protect the Western Australian environment from littering by ensuring that the legislation can effectively discourage and prosecute offenders for this activity, which is why the government is increasing the fines. As members know, litter detracts from the amenity of public spaces and reduces the value of our natural environment. Litter can impact on the environment in a number of ways, including choking waterways, which is a danger to marine life; posing a danger to native animals by polluting their food and water; blocking drains, causing flooding; and becoming a fire hazard through such things as cigarettes being thrown out of car windows. Litter can be dangerous and can become a health risk from such things as broken glass, syringes, and animal faeces along the verges. Another problem is the cost to the community and local government through the hundreds of thousands of dollars spent each year to clean up rubbish and small household items. Of course, the presence of litter can cause more litter, because studies have shown that when people see litter lying around they may be more inclined to litter in that area. That is a bit of background on the bill.

I thank the members for their comments on the bill, and I will address some of the questions that were raised, first of all, by giving a summary of those comments. The member for Gosnells probably made the best contribution as he raised a broad range of issues, as I would expect from the lead opposition speaker, so I give him a bit of a pat on the back. The member raised the issue of fast-food outlet containers, as did a number of other members. Pretty well all members raised container deposit schemes and detection of offenders, which I can address. Some other specific issues included abandoned shopping trolleys; the responsibility of fast-food outlets for fast-food wrappers; and the extended producer responsibility, which was raised by the member for Mandurah. I will address some of those issues in a minute. The member for Jandakot again raised the issue of individual responsibility for disposing of litter, which caused some discussion. He supports the bill, and likewise, I might point out, the member for Gosnells supports the bill; in fact, all members support the bill. The member for Jandakot also gave a very good report card to Singapore over the amount of litter on the ground there. The member for Mandurah raised extended producer responsibility and suggested it was a joint responsibility. I agree that it is a joint responsibility between the individual to dispose of litter responsibly and the producers to minimise the packaging they produce. I believe that producers understand that responsibility, but whether the various producers are delivering on that is debatable. However, I know it is on their agenda.

The member for Mandurah also raised the issue of newspapers in letterboxes—I am jumping ahead of myself—and the member for Alfred Cove gave the example of a newspaper put on her lawn that may blow on to someone else's property, and I will deal with that. If someone puts a newspaper into a person's letterbox, it is not littering, but if a person throws anything on the ground, it is littering. Technically, that could be a newspaper that the owner probably has not asked for. I have *The West Australian* delivered; I pay for it and sometimes it is not there, so sometimes I pay for a newspaper I do not get. My understanding would be that a newspaper delivery is not littering because I asked for that newspaper to be put on my verge, but if someone else throws something else on my verge and I have not asked for it, technically that is littering.

**Dr M.D. Nahan:** What about political advertising?

**Mr W.R. MARMION:** If they have dumped it on the verge, that is littering. It has to go into a proper receptacle.

**Mr D.A. Templeman:** The reason I raised it is that very interestingly this issue was raised again in yesterday's local community newspaper in Mandurah. There are a number of people in my community—I am sure it is not just in mine—who have raised this with council. Council's response has been that the legislative regime is not strong enough for it to act, which I disagree with. I think the actual act is there—the rules are there—but I think there is a reluctance to respond. All I was saying was that I think it is an emerging problem. The next stage will be the delivery of stuff in plastic bags that are dumped on front verges, as we have now seen with lots of local rags.

**Mr W.R. MARMION:** I agree. It is probably something that, as Minister for Environment, I should get across and make a strong statement on so that local governments know where they stand, because I think the member is dead right. I pay for the paper, and in my area there is also the *Post* and the *Western Suburbs Weekly* that are put in my letterbox. That can also block my letterbox when the postie comes along and he cannot get the mail in there. I have found my mail on the ground, which is technically littering, although it is something I want. The mail has fallen out of the letterbox because the newspaper has been put in there. I am sure I am not the only person who has had that problem. Certainly, I agree; it probably is an emerging problem if it is moved to the next

step with junk mail. All my junk mail gets in my letterbox. This is probably getting down to a minor aspect of the issue, as this bill is really about increasing the fines for and the prosecution of littering.

Interestingly, the member for Alfred Cove went to the next step. If the newspaper is put on a person's lawn and it blows on to someone else's property, whose responsibility is that? People will not get pinged for that, because it is an accident. It has not been deliberately thrown onto the next-door neighbour's property or onto the verge. It is an accident, and someone will not be prosecuted for that. That was an interesting point.

The member for Kingsley supports the bill. She was particularly supportive of Keep Australia Beautiful's adopt-a-spot program. She mentioned that Friends of Yellagonga Regional Park had done that in her electorate.

A number of members raised the issue of how many litter reporters were in their electorate. We are working on those figures at the moment. I have some early figures. It is a pity the member for Mandurah left, because I think his electorate might have the highest percentage. From the early figures that have come in, the areas of Mandurah, Dawesville, Joondalup, Ocean Reef, Jandakot, Cockburn, Girrawheen, Wanneroo, Willagee, Churchlands, Darling Range, Kalamunda, Southern River and Swan Hills have high percentages of litter reporters.

**Mr A.J. Simpson** interjected.

**Mr W.R. MARMION:** That is true; the people in the hills seem to have a higher percentage. I will undertake to confirm the table and I will table it in Parliament. It will be easier than sending it out to the member. I will try to get that done either this week or next week. We want to make sure that the figures are right. We can do it by postcode or we can also do it by the number of reporters, so we can probably deliver it in two forms so members can easily see the numbers by postcode.

The member for Nollamara covered similar areas to everybody else. She referred to the government's "Litter Prevention Strategy for Western Australia 2009–14" and quoted correctly from it. She made the point that the bill goes some way towards changing people's behaviour by increasing the fines. I admit that it has to be a holistic package. This is part of the package. The member for Nollamara pointed to the government's litter prevention strategy that was released by the previous Minister for Environment, Hon Donna Faragher. It is a very good document. On page 5 it has a nice figure that refers to the reasons people litter. The most common one is that there is no bin nearby. She made the point that some people say that they could not remember. Her argument was that there needs to be a focus on education. Indeed, one of the main strategies of Keep Australia Beautiful is education. It has a pretty good approach to it. Regardless of that, as most members pointed out, WA needs to lift its game. I think we have started to show signs of improvement over the last couple of years.

The member for Nollamara talked about land in her area that could be developed. I am assuming that it has a propensity for litter. That is true; if an area has litter, it does not encourage people not to litter. I agree with her, but obviously it is not part of this bill. That is a planning issue for another minister. In fact, the land is overseen by the Minister for Housing.

The member for Forrestfield raised the deeming provision. This bill will increase fines. One of the problems with the current system is that a reporter of litter or an authorised officer can get the registration of a car. The person can say, "Well, I wasn't driving it." Unlike for a speeding fine, there is no deeming provision for it to be deemed that, if it is someone's car, they get the fine. This legislation brings that provision in, so that if someone sees a piece of paper thrown out of the car, as I think the member for Gosnells explained, they can try to write down the details. The onus is still on the people prosecuting, which could be the local authority ranger or a person from the Department of Environment and Conservation, to prove that the person was littering. The onus is not on the driver to prove they were not littering. There still has to be evidence to show that. The current situation is that, if the driver says that he was not driving, that is the end of the story. But now, the driver will have to say who was responsible for the car. If someone had taken the car, unauthorised, the charge cannot be taken any further. The member for Forrestfield was keen to get a response to that; that was his main concern. I have just answered his other concern of what are the safeguards. The safeguards are that a vexatious person cannot say, "I saw the member for Gosnells driving down—I saw the sign on his car." He made the point that someone might drive over a can and it flies out to the side. If someone looks up and sees the member for Gosnells' car going along and sees a can flying on the side of the road, they could make the wrong assumption that the member for Gosnells had actually thrown the can out of the window. They would have to have good evidence. The member would probably say that he had never drunk that brand of drink. It is probably something that would not get progressed.

Indeed, the main thrust of the Keep Australia Beautiful program is education. That is just one of the things that support education. He also mentioned container deposit legislation as another angle. We may discuss that later on. A lot of reports have been done in the past on a container deposit scheme. As I have said in the past, we have

just done a consultative regulatory impact statement through the Council of Australian Governments process. In the next phase, the ministers for environment will meet in two weeks' time. The consultative regulatory impact statement—CRIS—is on the agenda for discussion. The ministers will decide whether we go to the next stage, which is a decision-making regulatory impact statement. I do not want to foreshadow where I might go on that, but it is the number one item on the agenda. I have heard the federal minister on television in recent times; the member also might have heard him. This issue has been raised with the federal minister. I might point out that I did not feel that he was all that enthusiastic, but we will see what happens at the meeting. I have also said in the past that if a container deposit scheme were to be brought in, it would be far better if it were a national scheme, because there are obligations on packaging and bottling producers. A scheme should be the same across borders. I think everyone agrees with that. If we were to introduce a container deposit scheme, it is important that it be a national scheme. My view is that the scheme should be as close to the South Australian scheme as reasonably possible so that the South Australians do not have to mess with their scheme too much. The member for Forrestfield also raised concerns with specific wetland areas in his electorate. Again, he pointed out, as did the member for Kingsley, the very good work that the community groups do in his electorate.

The member for Joondalup also supports a container deposit scheme and was fairly critical of some of the fast-food outlets in his area. He also raised the issue of shopping trolleys, which I will get to later.

The member for Mount Lawley, who is in the house, strongly supported some of the comments made by the member for Nollamara about the problem with litter on road verges. Indeed, the cost of cleaning up road verges generally falls back on local councils and, obviously, ratepayers. The increased penalties in the bill may go some way towards assisting in that respect. He also mentioned the blight of shopping trolleys and was very supportive of shopping centres having coin deposits for trolleys. Indeed, shopping centres have the power to do that now; some choose to do that, but it seems that most choose not to do that in Western Australia. Interestingly, until just recently I had not heard about the trolleys that have wheels that lock if they are taken out of the car park, which sounds like a good idea for shopping centres to look at. The member supports the bill.

The member for Armadale also said that education is very important, which, again, was a common theme and is a common approach to littering. He asked whether there is any evidence that fines have some impact on people. My understanding is that it does. But I think the member is right; if it is coupled with education and advertising, it will have a far greater impact. I have had advice that a prosecution will be brought down in the next day or two that might help to publicise the fine aspects of this bill. The member for Armadale supports a container deposit scheme and believes that the South Australian system works well. He also raised the issue of shopping trolleys and the coin deposit system. I personally think it is a good idea. Shopping centres have the power to do that now. Someone said that shopping trolleys cost about \$200. I understand that they cost a lot more than that. Someone told me—I do not know this for a fact—that it is closer to the \$1 000-plus mark. There is an in-built incentive for shopping centres to look after their trolleys, because they are fairly expensive. As members know, trolleys are quite robust because they get a bit of a hammering not only in the shopping centre, but also around the car park, so they last a few years.

That was a bit of a summary of the second reading debate. I will go through some of the specific points that were raised. I have mentioned a couple, but I will now address the ones that I have not addressed in a more general form. I do not disagree with the general issue about fast-food outlet responsibility—that is, the extended producer responsibility. That is an issue. That is why we are looking at container deposit schemes and other aspects. Under the consultative regulatory impact statement, five options are being considered: two are container deposit schemes and the others are regulatory control schemes. At the moment, there is a packaging covenant, and the packaging industry is basically funding initiatives to reduce the impact of littering. We are looking at the effectiveness of that and at other schemes that could be introduced. Of course, a container deposit scheme can take many shapes and forms. In a broader sense, it is really a deposit and a collection, but there is probably an infinite number of ways that a scheme could be implemented.

As I have said, the issue of shopping trolleys was raised. That is the responsibility of retail outlets.

The member for Gosnells mentioned the McDonald's outlet in Thornlie. As the member knows, the placement of retail stores is obviously a planning matter.

A figure of 5 000 litter reporters was mentioned. This bill was introduced some time ago. I do not want to confirm this, but the figure is nearly 6 500 at the moment. When the issue is raised with people, they are very keen to get on board. It is a very popular scheme.

Again, on the issue of fast-food operators, under the Litter Act, it is the responsibility of the person who commits the offence. In this case, it would be the customer or the employee. I will use cigarettes as an example. They are the responsibility of the person smoking them. If cigarette butts are put into a receptacle at a hotel and an employee of the hotel picks up the receptacle and dumps them on the ground, the hotel will be pinged for that.

That is why the penalties have an individual element and a corporate element. Someone raised the issue that penalties should include community service obligations. That is a matter for the court in sentencing; it is not related to this bill. Someone also asked about the number of prosecutions. I do not have the exact figure, but there have been numerous prosecutions under the Litter Act. The highest penalty I have been made aware of is \$1 800 for two charges: the person littered twice and the magistrate fined the person \$900 for each occasion. I also mentioned what would happen if a newspaper or paper accidentally goes onto a verge on a windy day; that would be an accident and so no-one would be charged for that.

The member for Nollamara mentioned our litter prevention strategy; the Litter Amendment Bill 2011 is in line with that. Pretty well everyone mentioned that the legislation does not go far enough; it is not meant to. This is just one of the many tools in the toolbox that can be used to try to address the issue of litter. We already provide education in schools, there is physical intervention through bins and signs, and we have incentives and reward programs. We have the Tidy Towns — Sustainable Communities competition, we have grants, and we have the adopt-a-spot program that the community jumps on board with.

I was asked what will happen to fine revenue. Fine revenue will be kept by the relevant agency. If a local government ranger issues an infringement, the local authority retains the revenue; if Keep Australia Beautiful Council or Department of Environment and Conservation staff issue the infringement, those bodies will retain the money. The money that goes to Keep Australia Beautiful will stay in its budget and be recirculated through other litter prevention schemes. There was a suggestion that the money will go into the government's consolidated revenue; that is not true. Local councils spend so much money on litter clean-up that the amount of money they will receive from infringements probably would not go anywhere near what they spend. Therefore, one could argue that that revenue is being directed to where it should go.

There will be no change to authorised officers. Currently, some authorised officers are approved by me, but all other authorising officers are approved by the chief executive officer or the council. We are just amending the legislation so that I do not have to approve an authorised officer. That is just a tidying-up clause.

I have mentioned the onus of the driver, the scientific evidence and the shopping trolleys. To give a little more detail on shopping trolleys, they are not excluded from the Litter Act. Technically, to discard a shopping trolley is littering; however, the more serious charge would be stealing. So, if someone is running off with a shopping trolley, they are probably committing a more serious offence in stealing rather than littering, although obviously they are littering as well if they discard it.

My final point is on balloons, which are becoming a bit of a problem. I have noticed that at larger events such as football matches they might have lots of balloons being released; councils have now suggested that that not happen. People have been responsible about it, and members will probably find that less helium balloons will be released at major events such as football matches or concerts.

**Mr J.M. Francis:** Minister, I went to a funeral recently, and everyone there let go of a silver balloon, and that was the way they celebrated his life, so I don't know how that —

**Mr W.R. MARMION:** I suppose technically if someone followed that balloon and took a photograph of the person as evidence, they could actually —

**Mr J.M. Francis:** It would probably be a bit rough for people to be up for a fine for a funeral.

**Mr W.R. MARMION:** It would be a bit rough; I think so. But I think a good point to make is that people should consider their actions; maybe they could have actually let the balloons off in a room so that some of the younger generation could take the balloons home later on that day.

I think I have done justice to the second reading debate—I see a few nods—and probably given a more-than-fair response.

**Dr K.D. Hames:** That was a very fair response.

**Mr W.R. MARMION:** I support the bill entirely, and ask that it be supported.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

*Bill's Scope Extension — Motion*

**MR C.J. TALLENTIRE (Gosnells)** [10.36 am]: I move —

That the scope of the Litter Amendment Bill 2011 be extended to allow an amendment to be moved to insert a new clause into the bill that will amend the Litter Act 1979 to obligate the minister to procure, through regulation, a suitable container deposit scheme.

The reason for this motion is that I have had excellent advice from the Clerks that we need to be absolutely sure that the scope of this amendment bill coincides with the amendments we are putting forward to the Litter Act. There is no question that the Litter Act itself provides for a container deposit scheme. The long title of the Litter Act 1979 states that it is —

**An Act to make provision for the abatement of litter, to establish, incorporate and confer powers upon the Keep Australia Beautiful Council (W.A.), and for incidental and other purposes.**

There is no question about it; the Litter Act 1979, which we are here to amend, is about abating the amount of litter in our community.

During the second reading debate on the Litter Amendment Bill some excellent contributions were made that touched on the need for a container deposit scheme, acknowledging that there are other means by which we can reduce litter. It would seem that the bill introduced into the house by the government has a heavy weighting towards the punitive side of things, but what we are saying, and what members opposite have acknowledged, is that there are other means by which we can reduce the amount of litter in our community. Education was nominated by a number of members; people said we need to educate the community at the same level that we have done in the past. There is a view that I think is shared on all sides that in the past there were more comprehensive education schemes that discouraged littering and informed people about the community cost that comes with the growing litter problem. It is a problem that is confirmed by actual hard data; the data confirms that we have become the worst littering state in the nation, and it confirms that the problem has worsened. Things need to be done, and members indicated that education was one of those tools.

We have also seen that a container deposit scheme would be an excellent means to improve the situation. Comparisons have been made with our neighbouring state, South Australia, where things are dramatically better. All the information and data collected through the Clean Up Australia Day program shows that there is considerably less litter in the way of beverage containers in South Australia than is the case in Western Australia. There are many arguments for broadening the scope of this amendment bill. Members might be tempted to think: “Well, let’s just do the penalties this time”; but we all know how difficult it is—how lengthy a process it is—to get an amendment bill into this place. I believe that if we do not have a thorough debate on container deposit legislation, we will miss an opportunity presented to us by the Litter Amendment Bill 2011. If we confine it only to this penalty approach, we will miss the opportunity to talk about education and other things. We will also miss the opportunity to have an incentivised approach. Surely that is an approach that would ring true with those opposite. I know that they have a philosophical leaning to everything to do with the use of the free-market approach; they believe in incentives. On this issue I share their view that an incentivised approach is the best way to go. That is what is at the heart of a container deposit scheme.

Members opposite may be concerned that we do not have enough detail before us, but I point out that when the member for Belmont was the Leader of the Opposition, he and Hon Sally Talbot, the shadow Minister for Environment, did some excellent work in preparing for this place the Container Deposit and Recovery Scheme Bill 2011, which has been presented and debated. That bill outlined how this system could work to Western Australia’s advantage. It has all the detail in there. It provides for a beverage container environmental levy and for the money collected to go into a beverage container environmental levy account. Anyone importing into or manufacturing beverage containers in Western Australia would be required to pay into the levy account a 10c deposit for each beverage container. That legislation, which was prepared and introduced by my two colleagues the member for Belmont and Hon Sally Talbot, really gives all the detail on this issue that we could ever need. It is an excellent example of how a scheme could work.

The proposed container deposit recovery scheme is slightly different from the South Australian scheme. South Australia has a very good model, but there is one big difference: the South Australian scheme is run by industry. The bill that the member for Belmont and Hon Sally Talbot prepared centres on the Waste Authority as the body that runs the container deposit scheme. That is a considerable difference that provides some advantages, especially in the transparency that we would achieve. We would get much more information and be able to monitor what is happening to the flow of funds. A scheme run by an independent but recognisable authority is a more effective way of delivering outcomes than is an industry-run scheme. That said, there are many commendable features of the South Australian scheme and they are very much a part of the Container Deposit and Recovery Scheme Bill 2011.

In his reply to the second reading debate the minister talked about the forthcoming Council of Australian Governments meeting, which will consider a national scheme for container deposits. We need to be wary of a

few things, one of which is that this issue has been high on the COAG agenda for many years but it has not delivered.

**The ACTING SPEAKER (Ms L.L. Baker):** Members, could you keep your private conversations down? I am struggling to hear the member on his feet.

**Mr C.J. TALLENTIRE:** The idea of a national scheme is a worthy endeavour, but it has not come to fruition. It is difficult to coordinate the wishes and aspirations of all the states and territories of Australia. I also point out that a national scheme for Western Australia might be similar to many other national issues whereby we must deal with hard infrastructure and hard product because we are a long way from the rest of the nation. It is unlikely that our recycled waste stream would enter into the waste stream of the eastern seaboard and therefore we will have a standalone system, which is often the case. We have only to look at our electricity grid. We will not be hooked up to the national electricity market, the NEM. We have a standalone market. It is fairly reasonable to assume that with all the energy used in breaking down aluminium cans and transforming them into useable containers, it is unlikely that we will recycle and convert them into a new product by shipping them across to the east coast. To me that would be an inefficiency in the program. We can have an energy saving of 90 per cent if we recycle an aluminium container rather than go through the whole process of taking virgin product out of the ground with all the refining that goes on before the eventual production of a can that can hold soft drink. If we make sure that this scheme works, we can have an energy saving of 90 per cent.

Keeping the scheme in Western Australia can only add to our efficiency. It would save us the difficulty of having to work in with a national scheme. South Australia has had its standalone scheme in place for around 35 years. There is no problem with South Australians having a standalone scheme, so why should it be any different for Western Australians? I would be concerned if the potential for disagreement or confusion at a national level on this particular issue was to be used as an excuse for not proceeding with a Western Australian container deposit scheme, especially when all the hard work has been done. As I said, the member for Belmont and Hon Sally Talbot have done all the hard work in preparing the legislation. Now the measures in that bill can be adopted by the minister. Perhaps he can use that at a regulatory level rather than at the level of an act of Parliament. He can use the detail and methodology in that legislation and take this opportunity through my motion to amend the Litter Amendment Bill 2011 to make sure that we have this as part of the Litter Act 1979. If the minister were to do that, it would be an opportunity for him to say to the people of Western Australia that he takes the issue of littering very seriously. He realises that there is a need for a punitive approach. Members have debated that over the course of the last 24 hours. There is also a need for an educative approach. However, we need some sort of incentivised system, and a container deposit scheme would provide that.

We often talk in this place about the need to take a more holistic approach. I am concerned that the Litter Amendment Bill 2011 takes a very narrow approach and focuses only on the punitive measures. Here is an opportunity for us to extend the scope of the Litter Amendment Bill 2011, which is a bill for an act to amend the Litter Act 1979. I have already read out the longer title for the Litter Act 1979, which is about reducing the amount of litter. This is the perfect opportunity for us to bring together different elements of our strategy to tackle litter in our community. We can see that the whole approach would reduce the problem. It is already acknowledged as having enormous community support. I have mentioned in the past that the surveys we see on the issue indicate a very, very high level of support. There is something like 90 per cent community support for this.

The plan that Labor has presented to the house is well thought through. It revolves around a 10c deposit on cans and it would enable other people to be involved in the whole system. Perhaps local governments, scouts or other community groups would be involved in running the facilities to which people would deliver their beverage containers, and get them off the streets. The beauty of this system is that it is so neat. I have already outlined how a manufacturer or importer of a beverage container would have to pay that small fee of 10c per item into the beverage container environmental levy account. That money would then be paid out to the people returning the containers. That is how the funds would transfer. However, the beauty of it also is that there is an incentive for people to pick up litter from the streets and to recover an extra 10c for themselves. There is also the fact that we keep the waste stream much freer from contamination. We have in place the yellow-top bins, depending on the local government area in which people live. We have the home kerbside recycling service, but that has not been as effective as it might have been. In fact, the figures show that in Western Australia we are not achieving through that scheme the level of recycling that we would like to have. Not only is it not achieving the volumes that we would like to have, but also it is very vulnerable to contamination. If any members travel along their streets on the fortnightly recycling day, I am sure they will notice the odd bin whereby somebody for some reason or another has not understood the constraints on the items that should go into those recycling bins, and we see all sorts of things in them, as well as the items that are for recycling. Even if we follow the letter of the law on recycling and what should go into the recycling bin, there is still cross-contamination between cans, bottles and newspapers. In this way, there would be a great reduction in the level of contamination, which means that

our recycled product will become more valuable, and that will be the essence of stimulating a recycling industry in Western Australia that will have strong financial business plan credentials, which will open up all sorts of opportunities. In Western Australia we can do this with a good-quality, non-contaminated recycled waste stream. That will make the big difference.

I want to conclude by reminding the house of some of the worthy support that is around for this container deposit scheme, adding to the reason why we should not miss this opportunity to add to our amendments to the Litter Act a container deposit scheme. I think late last year all members would have received a letter from the President of the Western Australian Local Government Association, who said —

Action is needed by Parliament to increase resource recovery and reduce litter and a Container Deposit Scheme is a good way to achieve this.

That kind of endorsement is from the body that is really in touch with all local governments across the state—local governments that are feeling the burden of cleaning up our streets, our suburbs and our countryside. Local governments that have that responsibility want to see such a scheme in place. It would make a huge difference to the aesthetics of our state—our environment. What a nice reputation and what a compliment to our tourism industry it would be if people who visited Western Australia left the state saying, “Gee, that’s a nice, clean state. What a clean state Western Australia is. We don’t see litter.” Unfortunately, that is not the report we get. If people visit South Australia and they travel through the Adelaide hills or go down to the Barossa and McLaren Vale, they report that they feel the South Australians have a great pride in their state and that the kerbs are clean; they are not littered with bottles and cans. Unfortunately, in Western Australia we have lost our reputation when it comes to keeping a clean environment. We have this silly thing, this tarnishing of our image, that comes through those people who litter our kerbsides and elsewhere. It is an unfortunate reputation that we are acquiring and it is one that can be dealt with very quickly and very simply by this very neat incentivised scheme.

I commend this motion to the house, which would enable us to go on to debate the amendment that stands in my name on the notice paper. We could then ensure that we seize this opportunity to amend our Litter Act so that it allows the minister to establish a container deposit scheme. We do not have to wait for the rest of the nation. Why should we have to do that? This is an opportunity for Western Australians that is here today and one that I think would be roundly applauded by the whole Western Australian community. I commend this motion to the house and look forward to debating the amendment to the Litter Amendment Bill that stands in my name on the notice paper.

**MR D.A. TEMPLEMAN (Mandurah)** [10.54 am]: I commend the member for Gosnells for the presentation of this motion. I think it is important that members understand that what we are seeking to do first of all is to extend the scope of the Litter Amendment Bill that is currently before us for debate to allow us to move an amendment that we would then like to debate. I think we should be given that opportunity, and Parliament, and members opposite in particular, should consider supporting the motion so that we can debate in consideration in detail the proposed insertion of a clause that would see Western Australia introduce a container deposit scheme that is suitable to our state’s needs.

In the second reading we have debated and discussed a range of issues regarding littering, and one of the things that has been made very clear is the state’s poor reputation for general littering. There is also the reputation that shows that a lot more improvement needs to be made in diverting waste from landfill. This motion requests that the scope of the Litter Amendment Bill be extended to allow a container deposit scheme. A container deposit scheme would be a major step in addressing the issue of disposing of waste through landfill. I think the important aspect of a container deposit scheme is this: not only does the community strongly support it, but also that support has been consistent. In the last four or five surveys on a container deposit scheme—the member for Gosnells might correct me if I am wrong—I understand that the feedback continues to show more than 80 per cent support for such a scheme to be introduced into Western Australia. I do not think that sentiment is based upon some fanciful or nostalgic view of what occurred previously in the state, which we have debated in this place before—although I have said in this place that people have nostalgic views about the old system or a previous system, particularly for glass bottles, that existed in the 1970s and earlier.

It is important that we recognise that we are proposing a different scheme, because we are talking about different materials or a significantly greater number of materials that can now be diverted from the waste stream and recycled, re-used and reprocessed; those materials did not exist in large numbers in those earlier times. Most of the recycling, and the deposit scheme, if you like, that existed, was very much when we had lots of bottle-ohs and when we had a deposit of 5c, from memory, on empty bottles. In those days they were glass, and large glass bottles mainly; and, of course, in those days there were a large number of glass bottle recycling depots and processing factories in Perth and other parts of the state. What we are talking about here, of course, is a modern container deposit scheme that rewards people to put those empty beverage containers back into the system by receiving a deposit back. Yes, the cost of that is levied at the point of sale but it is then able to be redeemed in a

proposed variety of ways. The member for Forrestfield yesterday highlighted that there is great scope of opportunity for a lot of community organisations to be involved in a container deposit scheme and act as, if you like, quasi-collection points. If the scheme existed, there would be potential for scouting groups, football clubs, netball clubs and various sporting and recreational clubs that are always looking at ways of raising funds to collect cans and bottles and then themselves redeem the 10c or 20c or whatever the deposit is determined to be. That happens in South Australia. When I was Minister for the Environment, I visited South Australian deposit centres and spoke to the organisation that oversees the scheme in that state. It had examples of local community sporting groups encouraging their members and their kids to bring all their bottles and cans to a collection point that the groups had created, which they would then redeem at the various deposit centres throughout, in this case, Adelaide. Lions clubs and other service clubs, such as Mandurah Lions Club, already collect cans and are interested in being involved as collection points if such a scheme was introduced in Western Australia.

A container deposit scheme is really almost a no-brainer; the community supports it. Last year and earlier this year, a number of members of this place presented petitions for a container deposit scheme. I presented petitions that totalled more than 3 000 signatures from the Mandurah–Peel area. Interestingly enough, those signatures were collected by a lot of people who are involved in cycling clubs in Mandurah, particularly two big cycling clubs—Silver Wheels and the Over 55 Cycling Club. Those people enthusiastically collected signatures because as cyclists they are all the time out and about on our cycleways, footpaths and roadways in the region. They keep seeing broken glass on footpaths and verges and litter along roads, highways and byways. Those cyclists see that every single day because that is what they do; they enjoy their recreational pursuit of cycling. They were enthusiastic collectors of signatures for the petition because they could see the value it would have in not only diverting waste from landfill but also encouraging a cleaner, healthier community.

In moving this motion, the member for Gosnells has simply allowed us to widen the scope of the Litter Amendment Bill 2011 and the amendments we are looking at to have a debate about this matter. I do not think anyone in this place should vote against that. Why should we not continue to have this debate about doing something genuine that we know will actually work? Yesterday, there was some criticism about highlighting the importance of fast-food chains, for example, taking greater responsibility for the packaging used for their fast food. That excited some members in this place and one in particular. However, a container deposit scheme proposal has runs on the board in not only South Australia but also many other parts of the world. My good neighbour across the road from me is a German man called Reiner. When I was locally highlighting the petition for a container deposit scheme, he came across as we were putting out the bins one morning and said, “I want to talk to you about this scheme. We have it in Germany and throughout Europe.” Reiner has lived in Australia for a long time and he cannot work out why we have not gone down that road that many European and other countries in the world have. He highlighted that it is now basically an almost innate thing that people do. It is a cultural thing in many of those countries and a simple thing that kids learn right from a very, very young age; when someone buys Coke or another beverage that comes in a steel, aluminium or glass container, the first thing they think about is how they redeem their deposit for that item. It is a no-brainer for them and has been for a long, long time. A container deposit scheme diverts so much waste that potentially could end up in landfill.

One of the great challenges in places such as Europe is that countries have smaller land areas and have almost been forced into making sure that they deal with their waste more efficiently and more effectively because they do not necessarily have wide tracts of land in which to simply dig a big hole and bury it all. In Western Australia and certainly other parts of Australia, for a long time the mentality has been that we simply bury the problem because we have so much land. That is not a very sophisticated or mature way to look at it. As the member for Gosnells said in his contribution about why we should increase the scope of this bill to allow us to put that proposed amendment, why can we in Western Australia not lead? Why can we not for once, rather than just bicker about how we get treated by Canberra or how poorly done by we are with various things, show some maturity and actually lead? We are a very, very, big resource-rich state and we lead probably the world in our mining technology to extract so much of the vast resources that we have. Why would we not want to also lead in being a sophisticated economy and community that recognises that we want to be clean as well? We want to be recognised as a leader in waste management.

In some respects, as the minister would know, we are ahead of some other states in waste management. Our Waste Avoidance and Resource Recovery Act was one step towards that. However, I think it is time to be even bolder and start to implement some of the potential that the WARR act creates for the environment minister; it opens a range of opportunities. We should be recognised nationally and internationally as a leader in this area, but I think unfortunately there is always a perception that we are simply a place that digs up stuff, ships it off and then proudly boasts about it. It is good that we are a very important part of the national economy if not the world economy, but I hope that we will also be recognised for our innovation in how we produce waste and what we do

with it to ensure that we minimise it. That is what a container deposit scheme can do as part of a suite of methods to deal with this issue.

If we already were the lowest littering and the highest recycling community in Australia, the government would probably have an argument about bringing in a regime such as this. The sad fact, as was highlighted during the second reading speech for the Litter Amendment Bill 2011, is that Western Australians are, overall, pitifully bad recyclers. We are; we have not really been dinkum about improving our recycling. Secondly, we also have the worst reputation in Australia for littering. I think anybody who has some pride in Western Australia would say that that is not good enough; we need vast improvement in that area. Why could we not improve it? As the Minister for Environment knows, when I was minister we tried to get the national scheme happening. I know that it has been going on for years; the current minister is probably the fourth minister involved. In fact, I know he is, because Hon Judy Edwards, Hon Mark McGowan and I have also all looked at it. Indeed, the Deputy Premier highlighted in this place during a recent debate that a select committee in the early 1990s made a range of waste management-related recommendations. The reality is that this has been debated and flung about for a long, long time. Let us be bold and actually get on and do it. I honestly believe that if he were to implement this, the minister would be hoisted—not with his own petard—but hoisted up there as one of the most innovative and bold environment ministers ever; maybe even above myself!

**Mr W.R. Marmion:** I don't believe that!

**Mr D.A. TEMPLEMAN:** I am too modest, but I am prepared to lower my colours to the minister!

**Mr W.R. Marmion:** It'd be too hard!

**Mr D.A. TEMPLEMAN:** I am prepared to lower my colours because I think this would be a very popular initiative. In fact, if he were to do this, I would be concerned that the 3 000-plus people who signed the petition would say “Well done” to the minister and might no longer support me! But it would be to the benefit of our community and to the benefit of our reputation, so I say to members opposite: please, rather than simply voting down this request, if you like, to broaden the scope of the bill so we can have a debate, allow this motion to be passed so that we can have a debate within the context of the Litter Amendment Bill 2011 about the benefits of the minister procuring through regulations a suitable container deposit scheme with appropriate penalties to deter littering. I think that would be a very sensible move, and I strongly support it.

**MR W.R. MARMION (Nedlands — Minister for Environment)** [11.13 am]: The government will not support this motion, for a number of reasons. Firstly, if we were to decide that we were going to bring in a container deposit scheme, this would probably be one of the worst ways to do it. There are two better mechanisms for bringing in a container deposit scheme. One way would be through a separate bill, and there is already a relevant private member's bill on the notice paper; that would probably be the most appropriate way to implement it. Another mechanism that is open to the government would be to bring it in through the Waste Avoidance and Resource Recovery Act 2007. The act has a section that provides for extended producer schemes, and the container deposit scheme would basically be like an extended producer scheme. If the government were to bring in a container deposit scheme, we would do it through either of those two mechanisms—a separate container deposit bill, or through a new section in the Waste Avoidance and Resource Recovery Act. That is a basic summation of why the government will not support the motion.

We are not here to debate the motion. The Litter Amendment Bill is a bill specifically about fines; that is its scope, and it is a narrow scope, so we will not support the motion. However, before I sit down, what I will say in respect of what ministers will be considering with regard to the container deposit scheme is that this is not a simple issue of 80 to 90 per cent of people supporting the initiative, even though they do. If one were to conduct a survey, that would be shown to be the case. As the member for Mandurah said, if a Minister for Environment were to implement this initiative he would have 80 or 90 per cent of people saying what a good chap he is, but we have to be a bit more responsible than that. Cost benefit analyses have been conducted by COAG of the five container deposit schemes in Australia and the cost benefit has been shown to be not very high. Nevertheless, ministers will be considering it. I have received about 1 000 emails from the Boomerang Alliance, as I am sure many other members have, although perhaps not quite as many as I have, being Minister for Environment. The alliance has provided me with advice on the consultation regulation impact statement; the member for Gosnells might be interested to know that one of the models was based on the Boomerang Alliance model, but the alliance is concerned that the one that was being considered was not as efficient as it had suggested, so I have obviously taken that on board.

On the other side of the coin, industry is saying that if we bring in a container deposit scheme there will be a cost to the consumer. Industry has probably been emailing everybody as well; certainly I have been getting emails. All the fors and againsts have to be balanced out, but in respect of this motion, the government will not support it because it is an inappropriate way to implement such a scheme.

Question put and a division taken with the following result —

Ayes (23)

|                  |                  |                  |                                     |
|------------------|------------------|------------------|-------------------------------------|
| Ms L.L. Baker    | Mr F.M. Logan    | Mr J.R. Quigley  | Mr C.J. Tallentire                  |
| Dr A.D. Buti     | Mrs C.A. Martin  | Ms M.M. Quirk    | Mr A.J. Waddell                     |
| Ms J.M. Freeman  | Mr M. McGowan    | Mr E.S. Ripper   | Mr P.B. Watson                      |
| Mr J.N. Hyde     | Mr M.P. Murray   | Mrs M.H. Roberts | Mr M.P. Whitely                     |
| Mr W.J. Johnston | Mr A.P. O’Gorman | Ms R. Saffioti   | Mr D.A. Templeman ( <i>Teller</i> ) |
| Mr J.C. Kobelke  | Mr P. Papalia    | Mr T.G. Stephens |                                     |

Noes (27)

|                  |                   |                  |                                   |
|------------------|-------------------|------------------|-----------------------------------|
| Mr P. Abetz      | Mr G.M. Castrilli | Mr A.P. Jacob    | Dr M.D. Nahan                     |
| Mr F.A. Alban    | Dr E. Constable   | Mr R.F. Johnson  | Mr C.C. Porter                    |
| Mr C.J. Barnett  | Mr M.J. Cowper    | Mr A. Krsticevic | Mr D.T. Redman                    |
| Mr I.C. Blayney  | Mr J.H.D. Day     | Mr W.R. Marmion  | Mr M.W. Sutherland                |
| Mr J.J.M. Bowler | Mr J.M. Francis   | Mr J.E. McGrath  | Mr T.K. Waldron                   |
| Mr I.M. Britza   | Mr B.J. Grylls    | Mr P.T. Miles    | Mr A.J. Simpson ( <i>Teller</i> ) |
| Mr T.R. Buswell  | Mrs L.M. Harvey   | Ms A.R. Mitchell |                                   |

Pairs

|                |                 |
|----------------|-----------------|
| Mr R.H. Cook   | Dr K.D. Hames   |
| Mr B.S. Wyatt  | Dr G.G. Jacobs  |
| Mr P.C. Tinley | Mr V.A. Catania |

Question thus negatived.

*Consideration in Detail*

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 23 amended —**

**Mr C.J. TALLENTIRE:** Clause 4 gets us to what I suppose is the whole purpose of this amendment bill: penalties. We note in the clause there is a penalty of \$5 000 for an individual and \$10 000 maximum for a body corporate. This leads us to question the detail of how this penalty system will work and what the anticipated effectiveness of it will be. I am therefore keen to hear from the minister how many prosecutions are expected and what basis he has for believing there will be whatever number of prosecutions he cares to nominate. I heard the minister mention in response to members’ second reading contributions that there has been a certain level of prosecution under the current regime. Prosecutions are one thing, but I want to know what the new projected level of prosecution will be. Perhaps more importantly than the number of infringement notices issued, though, is the question of how many infringement notices issued will transfer into fines actually paid. I am concerned that we may be dealing with people who are issued infringement notices but who are not in a position to pay. They may be those people who are so disenfranchised that they just ignore anything that comes from government. The minister may refer to the existing regime to answer my question: how many people have been in a position to pay the fine on their infringement notice and what is the projected figure in future for prosecutions?

**Mr W.R. MARMION:** This clause amends section 23 of the Litter Act to increase the fines for an individual to \$5 000 and for a body corporate to \$10 000. I point out that most fines are for infringements. For people who take the case to court the current maximum penalty a magistrate can hand down is \$1 000. It costs a lot of money to take a case to court. Most people who get an infringement notice for \$200 or \$75, as it is currently for littering with a cigarette butt, do not choose to go to court. I got more advice on the case I foreshadowed yesterday. The person fined \$75 for throwing down a cigarette chose to go to court and the magistrate, under the current \$1 000 maximum penalty, fined him \$100 with \$1 000 court costs. It therefore ended up costing him \$1 100 instead of \$75. That is the current situation: the magistrate chose a penalty of \$100 for throwing down a cigarette butt. However, under this new provision, if the magistrate thinks a more serious offence has occurred or it is perhaps a repetition of a previous offence, the magistrate could fine him up to \$5 000.

We do not have a lot of data on the history of infringement notices but the historical data I do have is that in 2010–11 there were 3 935 infringement notices issued; in the year before that, 4 842; in the year before that, 4 218; in the year before that, 3 648; and going back to 2006–07 the figure is 3 404. In general, the figure has steadily gone up and it plateaued a bit in 2010–11, but I do not have to hand the latest figure.

**Mr C.J. Tallentire:** Were they all paid?

**Mr W.R. MARMION:** I cannot tell from the data I have whether they were all paid. I imagine not all infringement fines are paid; they have to go through a process.

**Mr C.J. TALLENTIRE:** The issue of payment of a fine for an infringement is an important one, and one to which I hoped the minister would have had an answer. As I mentioned before, we could be dealing with a group of people who are repeat offenders when it comes to littering, who have a disregard for littering laws or are perhaps ignorant of them and who have a disregard for many of the institutions of our state. If that is the case, perhaps we could have a much more targeted program that deals with those people in this category. It would be really worth knowing, first of all, the percentage of fines that are actually paid. If it turns out that there is a high percentage of non-payment, we really need to identify the nature and make-up of those people so that we can develop a response to them. To have penalties like this on the statute book sounds good but it does not necessarily solve the problem.

**Mr W.R. MARMION:** There is no change to what is happening right now. If the member has a problem with the figure, what is the problem? All we are doing is changing the figure from \$1 000 to \$5 000. What happens now happens now. What happens after this bill is enacted will still happen. If someone gets fined and does not pay the fine, it will go through the fines enforcement procedure and they will lose their licence. That happens now. That will happen regardless of whether the figure is \$5 000, \$100 000, \$1 million, \$2 000 or whether it stays exactly the same. What we are doing with this amendment is giving magistrates a bit of power because we do not think a fine of \$1 000 is enough. It may be that the fine will stay the same, but this gives a magistrate flexibility. These fines are being lifted to make them comparable with fines in other states. That is why the fine for an individual is being lifted to \$5 000. I think it is very fair. I think it is reasonable, but if the member has a problem with the figure of \$5 000, I would like to hear it.

**Ms L.L. BAKER:** On the same issue, it has been my observation on a fairly regular basis, in discussions with people in the Department of Environment and Conservation who are responsible for bringing these charges against offenders, that they have had to bring in retired police officers to set up special investigation units to try to find the people who have dumped the rubbish. The issue for me is that this is going to have enforcement costs for the agencies involved. The other big issue is that my contacts at the grassroots level who respond to calls from the public about litter being dumped on a road or in bush tell me that it is quite difficult to actually get charges laid, let alone to collect the money from somebody who has infringed. I have had to make a number of calls to Department of Environment and Conservation officers and shire rangers to report illegal dumping, which would be categorised under one of these headings. It is really important to know how much success the officers have had. It is a very soul-destroying job for them to go out and take pictures of all the rubbish, to try to collect evidence, to refer the matter to the seconded officers, who in this case are from the police force, to try to conduct an investigation and then, after going through weeks and weeks of investigation, for cases to not proceed and for no outcome to be reached. It is important to find out and to put on *Hansard* at this time how successful the current system for imposing fines and getting people to pay them has been, because it is all part of how effective the new system is likely to be. In my opinion, it is great that there will be larger fines. I will be happy for the sign near my home to state that it is a fine of \$5 000 rather than a fine of \$75 or whatever the case may be, but we need to know that it actually can be enforced and that it is going to have teeth.

**Mr W.R. MARMION:** The member added another issue about illegal dumping.

**Ms L.L. Baker:** Littering.

**Mr W.R. MARMION:** There is a massive fine for dumping—\$62 000. It is hard to get those people. Indeed, the return for that sort of fine perhaps justifies putting on some trained people. It could be done through a local authority or DEC. A local authority could do the same sort of thing. If they were successful, the money would go to the local authority, so there would be a return there. I do not know the percentage, but by far the majority of infringements are fines of around \$200. Unfortunately, I do not have the figures with me. I could undertake for the department to go through and provide those to the house in due course.

**Mr D.A. TEMPLEMAN:** I am interested in this clause, which seeks to increase the fine under section 23 of the act. Section 23 includes the words “on any land or on or into any waters”. I am thinking of waterways. As the minister knows, the Peel has a vast area of waterways. What is the current practice or process when a member of the public, who may not be an authorised officer, witnesses a particular event? For example, our local water rescue group is out on the water all the time and could witness somebody throwing rubbish into the water and could take a note of the registration on the side of that person’s boat. Is that seen as evidence of littering if they provide that information to the appropriate authority, and does that fit within the scope of this bill and, indeed, the resulting infringement?

**Mr W.R. MARMION:** If someone witnessed someone littering in that situation, they should report it to the local government ranger, the Department of Environment and Conservation, the Keep Australia Beautiful

Council or even to the police. They would end up being a witness to the offence. It would then go through the courts; or indeed if those people could be caught quickly enough, an infringement could be issued there and then involving a fine of \$200.

**Mr D.A. TEMPLEMAN:** If I can just pursue this line: what is the difference in process between a person who is not registered as an authorised officer and someone who is, in this case?

**Mr W.R. Marmion:** Does the member mean a litter reporter?

**Mr D.A. TEMPLEMAN:** A litter reporter, yes. The minister mentioned in his response that if I am —

**Mr W.R. Marmion:** You just said an individual off the street.

**Mr D.A. TEMPLEMAN:** I am an individual; I am not an authorised litter reporter. I can then be called to be a witness.

**Mr W.R. Marmion:** Yes.

**Mr D.A. TEMPLEMAN:** If I am a litter reporter and there is a litter reporter process, is there a difference?

**Mr W.R. MARMION:** There is not a huge difference. A litter reporter has been trained. They know what evidence to collect. The benefit of a litter reporter is they would be doing all the right things—getting the right details and evidence. For example, if someone is throwing something out of a car, they know exactly what information to have that is sufficient to ping the person. That is the benefit of a litter reporter, but at the end of the day they are not an authorised officer—they cannot issue an infringement. They are really the mechanism to expand the scope of being able to ping people.

**Mr D.A. TEMPLEMAN:** Has the department experienced any circumstance in which a litter reporter, due to their actions—that is reporting—has been assaulted or has had an altercation with an alleged litter offender, in the recent past? I think litter reporters need to be protected. I am assuming they are anonymous, and remain anonymous. Has there been any situation that the department is aware of, where someone, as a result of being a litter reporter and doing what they have been trained to do, has also been on the receiving end of repercussions because of their reporting actions?

**Mr W.R. MARMION:** We are not aware of any. Part of their training is that they are encouraged not to approach people—to remain anonymous. Obviously if they end up being a witness, which is a possibility, it goes to court and their anonymity is taken away. The process is that they are encouraged not to approach. As a result of that, the department is unaware of anyone who has had an unfortunate circumstance like that.

**Mr C.J. TALLENTIRE:** On another aspect of this, it is more about the wording of the amendment. In part, clause 4 states —

In section 23 delete the Penalty and insert:

If we go to the Litter Act, we delete the penalty of \$1 000 and insert the proposed words. I am concerned that we could end up with wording that does not make sense and that it would read —

Penalty: ...

Penalty: ...

(a) ...

(b) ...

I worry about the lack of precision in the drafting.

**Mr W.R. MARMION:** This came up previously. This is the way it is done. I can show the member how it will end up looking in the final bill. There is the deletion; the amendment is above that. That is how I am advised it is done. The final bill will state —

**23. Littering ...**

(a) ...

(b) ...

(c) ...

(d) ...

Penalty: ...

The penalty of \$1 000 is removed; that is how it works.

**Mr C.J. TALLENTIRE:** Is it a fact that the amendments presented here are not exactly the amendments that we will see to the Litter Act 1979?

**Mr W.R. MARMION:** The clause is exactly as it reads. It seeks to delete “the penalty” and insert what is stated to be inserted.

**Mr C.J. Tallentire:** The figure “\$1 000” will be deleted but there is no mention of deleting the first occurrence of the word “penalty” even though the clause seeks to insert another occurrence of the word “penalty”.

**Mr W.R. MARMION:** Deleting “the penalty” includes deleting “penalty” and the figure “\$1 000”. That is how it works. The member for Gosnells is reading it without having spoken to parliamentary counsel. I assure the member that that is the strikeout. When “the penalty” is deleted, the word “penalty” and the figure “\$1 000” will also be deleted.

**Mr C.J. Tallentire:** I suggest that that is not accurate.

**Mr W.R. MARMION:** In my previous life as chief of staff to a very well-known minister who, like the member, is also a lawyer, parliamentary counsel won on all occasions when it came to the wording despite the learned minister’s legal expertise!

Several members interjected.

**Mr D.A. TEMPLEMAN:** I am quite abuzz that the minister has anointed me a lawyer!

**Mr W.R. Marmion:** I wasn’t referring to you.

**Mr D.A. TEMPLEMAN:** I thought the minister was. I am happy to receive accreditation. I will put my hand up to be the Attorney General of the next Labor government!

Given that the changes in fines for littering are substantial, has the minister given any thought to how the general public will be informed of the substantial increases in penalties that they will face once these changes have been made; and, through which budget will that money go? Will the Waste Authority be given, through its resources, some sort of responsibility, or will it be part of the Department of Environment and Conservation’s budget? Will an allocation be made to Keep Australia Beautiful to deliver the message to Western Australians that if this amendment is successful and the bill is passed, they will face substantial increases in penalties if they choose to litter?

**Mr W.R. MARMION:** Some media statements have been made foreshadowing the changes to the Litter Act. Education is the main program of Keep Australia Beautiful; indeed, it holds functions all the time. Already it has been selling the message in everything it does and it will continue to do so. That will be strengthened once the bill goes through this and the other house, because there will be some leverage to encourage people to refrain from littering. That will form part of the existing program.

**Clause put and passed.**

**Clause 5: Section 24 amended —**

**Mr D.A. TEMPLEMAN:** Clause 5 relates to the breaking of glass, metal or earthenware, or the causing of glass, metal or earthenware to go on any land or into any waters. I am interested in the scope of this problem of litterers physically breaking glass, which then has further impacts. Cyclists and cycling enthusiasts in particular are very concerned about this issue. In fact, one of the things that people who cycle regularly report to me relates to the impact of littering on not only their recreational pursuit, but also the safety of children and others, including gopher riders. A gopher rider came into my office recently to talk about broken glass on footpaths and the likelihood of getting a puncture when riding a gopher. I am interested in what the department is saying to the minister about the prevalence of this issue.

This is a bit left of field but I assume that under these laws it is still illegal for someone to crack a bottle of champagne on the bow of a ship to launch it. Is that true?

**Mr W.R. MARMION:** In response to the first question, glass has always been a problem. I remember going to Roebourne and being shown a street that the community of Karratha had spent all week cleaning up but a week later, unfortunately, there were smashed bottles everywhere. It was a horrible sight. Apparently, it has always been a problem. There are now more cyclists on the road. The department is getting evidence that it is an issue for cyclists, possibly not because the amount of broken glass on the roads is increasing but because there are more cyclists on the roads and therefore there are more issues. One of the reasons the fines are being put up is so we can deal with that.

The question of breaking a bottle over the bow of a ship is a very good question. It has come up before, though I do not know where. I remember someone raising this before. It is not illegal to do that. Someone can smash a

bottle of champagne on their boat but if a bit of glass goes into the water, they are littering and I suggest they might need to duck dive down to pick it up and avoid a fine if an authorising officer sees them.

**Clause put and passed.**

**Clause 6 put and passed.**

**Clause 7: Section 24B amended —**

**Mr C.J. TALLENTIRE:** Clause 7 relates to people who might incite or cause the posting of bills; that is, advertising material. We often see the sign “Bill posters prosecuted” and the famous graffiti that said “He was innocent”. For example, when the state government promotes the arrival of an international artist at Perth Arena, would the state government be somehow held responsible for inciting any poster material that might promote the arrival of that international artist at Perth Arena? How liberally has that incitement been interpreted in the past? I notice that the penalty is not changing. It is being held at \$10 000. All we are doing is inserting the words “a fine of” after “penalty”. Is it deemed that the current penalty level is adequate? How often is it used and how widely is it used? Are professional impresario-type concert promoters ever held to book for asking students to put up bill posters late at night advertising the arrival of someone?

**Mr W.R. MARMION:** There are a number of questions there. Firstly, this amendment is only a technical amendment, but I will get to the member’s other questions as well. All we are doing with this amendment is putting the words “a fine of” in front of \$10 000 because Parliamentary Counsel suggested that is now the accepted form; that is what is done. We no longer put “Penalty \$10 000”. The practice is now to say, “Penalty a fine of ...”, in any bill. That is all we are doing for this whole clause. I will answer the member’s other questions, which relate to this clause, although the wording of the section in the act will remain exactly the same. One question was about the amount of the fine of \$10 000. We see that as an appropriate fine; it is in line with some of the others. In terms of someone posting a bill, the member mentioned the new Perth Arena. The owner of Perth Arena might be happy for a bill to be posted that advertises a rock concert. If the member for Mindarie wants to put on a big show and advertise his performance and he posts a bill to that effect on Perth Arena, that would be fine. But if someone puts one of those posters on someone else’s property without their consent, that is not fine, and they can be charged.

**Mr D.A. TEMPLEMAN:** This is an interesting point the member for Gosnells raised about the incitement of litter being spread. We saw an example of this earlier this year with the social networking campaign called “Kony 2012”. Signs appeared everywhere in the city as a result of an international social media campaign to highlight the appalling atrocities of that gentleman in a particular nation. Part of the campaign encouraged people to spread bill posters throughout their city. I remember the Lord Mayor of Perth, Lisa Scaffidi, coming out very quickly on this to highlight that spreading the posters would be frowned upon by the City of Perth. That campaign was encouraged by social media, particularly a very effective Facebook campaign. Even though I agree that we do not want people plastering the city with these things, is there any capacity within this legislation to prosecute someone who has used social media to encourage what is essentially littering? Has that been considered by the department; is it captured there or is the act or any amendment simply silent on this? We all know that social media and modern technology allow people to download a poster and print it. If they are encouraged by a phenomenon such as the Kony 2012 campaign and plastered around the local communities—I saw them on the roadside in Mandurah earlier this year along the main highways; a number of them were posted on the main road verges, particularly on power poles—I think it opens an interesting line of questioning about where it stops. My assumption is that the person who physically posts the bill is responsible, but if in the lead-up to the election I write on Facebook “Vote for Dave Templeman. Here is my poster, download it and plaster it everywhere”, or if I get someone else to do that so that I am not in the frame, where would that fit, because that is an interesting question in my view?

**Mr W.R. MARMION:** It is a very good question. It depends on how the message is worded on social media. If the message implies something illegal, this will pick them up; that is, if they tell people to post bills in an area where it is illegal to post bills. However, if they keep it general, it might be a bit tricky to pick them up as they might still be within the law. It is a bit of a grey area, but technically it would apply if they incited and caused someone, as stated in section 24B of the Litter Act, “to leave or post a bill ... in contravention of section 24A(1)”. They would have to be very careful with their wording or they could be charged under section 24B of the act.

**Mr D.A. TEMPLEMAN:** Has the department dealt with an offence under this section or does it have anyone monitoring the social media phenomenon in order to be ahead of the game on this? We know now how effective social media is and how much more it will be part of our day-to-day lives in the future. In this sense, as soon as someone presses the print button they are creating a potential piece of litter, so I am interested in whether the department has any forward policy or strategic approach to deal with what might become a more prevalent

example of littering—even though I think it is unintentional, but it has the potential to cause a problem in the future.

**Mr W.R. MARMION:** The department is not aware of any prosecutions on this. The department would not have someone spending all day monitoring social media; it would work the other way. If someone committed an offence under the act—hypothetically speaking here because we are going into a new era of communication—and they said they were told by someone on their mobile phone to do that, it would open up the investigation.

**Mr C.J. TALLENTIRE:** It does seem that we are entering an era in which people see advertising opportunities everywhere. I am aware of this with products such as headphones—Skullcandy I believe is the name. When people buy the headphones, the advice with the product is that they put the company’s sticker somewhere prominent for promotional purposes. Would the department consider prosecuting a company like that, which in my view is irresponsibly asking people to find them free advertising space and therefore graffiti parts of our urban environment? What action would the department take in that case?

**Mr W.R. MARMION:** It is the same as the answer to the question that was raised by the member for Mandurah. If someone posted something illegally and it is picked up, it will depend on whether it comes from overseas; if so, there is a problem. It would have to be someone who incites that behaviour from Western Australia to bother to prosecute, that is, if the department thought it was worthwhile. However, we are not amending 24B of the act; it remains the same as it has been since 1996.

**Clause put and passed.**

**Clauses 8 to 10 put and passed.**

**Clause 11: Section 27A amended —**

**Mr C.J. TALLENTIRE:** In response to the second reading debate, the minister recounted a situation when a motorist was, perhaps, unfairly targeted by an enthusiastic litter reporter. In my contribution I mentioned the case of a lady who was travelling along Kalamunda Road late last year and was reported as having thrown a cigarette out of the window of her car. Clause 11 contains definitions of a “responsible person”, and reference is made to “responsible person for the vehicle” and the Road Traffic (Administration) Act. I am keen to know how these definitions would have applied to the cases that I and the minister referred to.

**Mr W.R. MARMION:** I am not across the detail of these cases, but the people who were prosecuted were under the current situation where the driver was identified. This clause would come into operation if the driver was not identified, and then the driver would be deemed to be the driver under these provisions unless they could identify who really was driving.

**Clause put and passed.**

**Clauses 12 and 13 put and passed.**

**Title put and passed.**

Leave granted to proceed forthwith to third reading.

*Third Reading*

Bill read a third time, on motion by **Mr W.R. Marmion (Minister for Environment)**, and transmitted to the Council.