

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

mandated. The member for Alfred Cove's amendment, like the member for Fremantle's amendment, elevates the prospect of one of these schemes being put in place. These schemes are in place in a lot of countries around the world, not just in South Australia. South Australia put its scheme in place in 1975. These schemes are in place in more advanced Western European countries such as Sweden, Germany and Norway. They are very sophisticated; more sophisticated than the scheme in South Australia. In Europe, instead of having collection points, the schemes are run in supermarkets, with machines that are installed. The billion-dollar companies in Europe that run these schemes are quite capable of installing those machines in supermarkets here. Just so that people know, the way that this scheme is funded is by people who do not redeem the bottle or the can. That is how it is funded. If people do not want to redeem the bottle or the can and they choose to forgo the 10c, they are funding the scheme. That is how these schemes operate. That is how they operate in Europe, the United States and Japan. They are not unusual. I do not think it is as big a deal as has been made out. I do not think it would be as difficult as has been made out to put one of these schemes in place in Western Australia. There would undoubtedly be logistic difficulties with the size of the state. There would undoubtedly be teething problems when it is first put in place. However, I do not think it would be very difficult if a government got serious about it, and I do not think it is outrageous for this clause to be placed in the head legislation as providing some indication that at some point in the future a government will consider it. Therefore, I urge members of the chamber to vote for this clause. I think what the member for Alfred Cove is proposing is quite reasonable.

Ms A.S. CARLES: I agree with the comments just made. The amendment simply elevates the container deposit scheme in the minds of the people making these decisions on waste on behalf of all of us. I will take the opportunity to put forward some of the benefits of this container deposit scheme in Western Australia, if we adopt it. The modelling that I have seen shows that local governments will save \$10 million a year if we introduce this scheme alongside kerbside recycling, and that it will generate a \$6 million a year surplus to prop up the Department of Environment and Conservation, if necessary. There will be a seven per cent reduction in waste going into landfill and a 25 per cent reduction in litter. We will also have water savings. The water savings will be enough to supply more than 4 000 Perth homes, and there will be greenhouse gas reductions that are equivalent to switching over 10 000 homes to 100 per cent renewable energy. Therefore, there will be energy savings equivalent to burning about 71 000 tonnes less coal. There will be air quality improvements similar to taking 27 000 vehicles off the road. Five hundred and fifty to 600 new jobs could be created in WA alone, and there will be a 25 per cent reduction in the cost of kerbside and drop-off recycling. Finally, 41 000 Western Australian homes will have access to recycling for the first time if we implement this scheme. Therefore, I urge the house to support this amendment.

Mr P. PAPALIA: I take the opportunity now to commend the member for Alfred Cove for giving the government another opportunity—another chance, in reality—to look again at including at least the option of a container deposit scheme. It is not compelling the government. As the member made very clear, this amendment does not compel the government to do anything other than have that clause in the bill; have that reasonable assumption that it would be considered as one of the options that could be included in the act. I listened to the member for Fremantle's contribution, in which she gave us a list of specific benefits to be had from a container deposit scheme. I have had briefings on these schemes too, and I am under the impression that initially they will not be self-funding, but they very quickly become self-funding. There is an incredible amount of opportunity and potential should a container deposit scheme be considered.

My concern now goes to the heart of what will happen in the event that the government refuses to consider this amendment. The question that must inevitably be raised is: why would the government do so? Why would it take that action? When we were considering the previous amendment to this clause during last week's debate on this subject, why did some government members feel so driven and so compelled to stand in this place and suggest that a container deposit scheme would somehow undermine our recycling efforts in this state? It is such a bizarre suggestion and such a bizarre supposition that one can only guess or surmise what may be driving the thought processes behind such a contribution from some members opposite, and what may be behind the decision by the government last week to refuse to consider the member for Fremantle's amendment to this legislation.

In the interim, some information has come to hand about a considerable number of approaches to the government by lobbyists. That is only in the offices of the Premier and Mr Conran. I think there were some 80 approaches by one individual lobbyist. One has to wonder how many lobbyists have been approaching backbenchers in the government on behalf of —

Mrs L.M. Harvey: How is this relevant?

Mr P. PAPALIA: How is it relevant? I am trying to determine what is driving and motivating backbenchers in the government to stand in this place and suggest that a container deposit scheme is somehow a communist plot

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or some other effort to undermine our very poor recycling rate in Western Australia. The only conclusion I am able to draw, member for Scarborough, is that perhaps some people who are operating on behalf of beverage companies, which will do anything to prevent the expansion of container deposit schemes to jurisdictions around the nation other than South Australia, may perhaps have had some influence on members of this place. They have not approached me —

Mr I.C. Blayney interjected.

Mr P. PAPALIA: — with good reason, because, as the member for Geraldton has indicated, I am not in the government, so I could not necessarily influence the actions of the minister anyway. So they have not approached me. However, there may be another reason, member for Geraldton. It may be because I have stated clearly that I am in support of a container deposit scheme, and perhaps they think that it is not worth wasting their time, money and effort on trying to convince me otherwise. Perhaps they feel that they will have a greater chance of success with some brand-new members of the backbench in government—this brand-new government that seemed to be so compelled and so absolutely convinced within five minutes of getting into this place that a container deposit scheme would be a bad thing for the state of Western Australia and for the environment of Western Australia. If I am wrong, let those members stand in this place and say that they have not been approached by the beverage company lobbyists. Let the member for Ocean Reef stand in this place and say that clearly on the record. When he gets a chance to make a contribution, let him say that he has never been approached by beverage company lobbyists. Let him confirm that. If I am wrong, I would like to hear why—not just because, from his experience, he thinks that a container deposit scheme might have a negative impact should it be introduced, and it might undermine our yellow-top bins program and somehow undermine our 30 per cent recycling rate.

Mr D.A. TEMPLEMAN: I am enjoying this contribution and I wish to hear more in the same vein from the member for Peel. I ask that he continue his remarks.

Mr P. PAPALIA: I am the member for Warnbro; goodness me, member for —

Mr D.A. Templeman: For regional Mandurah. Just remember regional.

Mr P. PAPALIA: Member for Ocean Reef, perhaps I have been unfair. However, it is speculation that the member must admit is warranted, in light of the discussions to date and in light of the tenor of the conversation as we have gone through —

Point of Order

Mr A.P. JACOB: I draw the member's attention to standing order 92, which states —

Imputations of improper motives ... on the Sovereign, the Governor, a judicial officer or members of the Assembly ... are disorderly other than by substantive motion.

The ACTING SPEAKER (Ms L.L. Baker): I do not think that is a point of order. The member for Warnbro can continue, but will he please keep his comments related to the proposed amendment.

Debate Resumed

Mr P. PAPALIA: I was not suggesting that there was somehow an impropriety. There is nothing illegal about receiving approaches from lobbyists. I was suggesting that perhaps —

Mr A.P. Jacob: You were suggesting that I have when I haven't.

Mr P. PAPALIA: I was suggesting that perhaps the member had been approached by a lobbyist and that perhaps the member had been influenced by that lobbyist. There is nothing wrong with that, should the member believe that when the lobbyist approached him, the lobbyist provided a fair, honest and reasonable argument, and that that convinced the member that this legislation was the right thing for Western Australia.

Mr A.P. Jacob: The answer is no.

Mr P. PAPALIA: If that is the case, that is fine. I am not suggesting in any way that the member has done anything wrong, even if he did sit down with lobbyists from the beverage company and have his opinions shaped by those large international companies with lots of money to spend. I would not have suggested anything at all —

Mr J.M. Francis: The member is so out of line!

Mr P. PAPALIA: Why?

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Mr J.M. Francis: I can tell the member that not a single person has mentioned the legislation to me in the past 12 months. The only conversation I have ever had about it has been with members of the Labor Party inquiring about it.

Mr P. PAPALIA: I accept the interjection from the member for Jandakot. I will explain once again how I have come to this point. I am trying to determine why the amendment was rejected outright based on the contributions from his side of the house and based on the minister's response to the quite reasonable proposal by the member for Fremantle last week. Firstly, the member for Fremantle made a couple of reasonable proposals regarding this amendment—that all of the money should be dedicated to environmental outcomes. That was rejected outright. I can understand the minister doing that because we all know that the purpose of this legislation is to fund a cut to the Department of Environment and Conservation's budget. That is fine; we all understand that. But beyond that, why would the minister reject outright the amendment suggested by the member for Fremantle that a container deposit scheme be included as an amendment to this amendment? Why would the minister have done that? The only conclusion I can draw is that somehow the minister has been convinced that a container deposit scheme is negative, evil or bad for the state and for the environment. I cannot understand why he would reject that outright. I am grasping around in the dark because I am not getting much information from the minister to find the reasoning behind his determination that the words "container deposit scheme" should not be included. I think it quite a reasonable conclusion to draw that there are a number of organisations in this country who have actively lobbied against the introduction of a container deposit scheme in this state. They have not lobbied me.

Mr J.M. Francis: They have not lobbied me—not once.

Dr J.M. Woollard: I have been lobbied.

Mr P. PAPALIA: It is not a secret, is it, member for Alfred Cove? They are out there.

Mr J.M. Francis: But the member should not say they have if they have not. I have not heard from —

Mr P. PAPALIA: I am not saying —

Ms M.M. Quirk: Has he talked to Cheryl Edwardes in the past 12 months?

Mr P. PAPALIA: Former members of Parliament are acting on behalf of beverage companies. Former Liberal members of Parliament are acting on behalf of beverage companies. They are on the record as doing that. It is not an unreasonable conclusion.

Mr J.M. Francis interjected.

Mr P. PAPALIA: I am not suggesting any untoward behaviour. I am just saying that perhaps members opposite have had their thought processes influenced by these individuals.

Mr J.M. Francis: The member is wrong! I am telling him that he is wrong.

Mr P. PAPALIA: If I am wrong, so be it. But members opposite should come up with justification for why a container deposit scheme should not be considered in this state. The amendment does not compel anybody to do it; it does not compel the government to introduce it. It includes it as something that may be funded from the proceeds of this levy. That is entirely reasonable.

Ms J.M. FREEMAN: I commend the amendment, which includes the option of a container deposit scheme. I agree that whilst the amendment does not mandate the scheme, it ensures that what is said in this house, in the other house and in the media by the minister is a commitment to a container deposit scheme.

I note that there was some interjection about it needing a separate piece of legislation, and in fact it does have a separate piece of legislation. We ask that the regulations that set out that piece of legislation be passed through this house and put into place. That will elevate the prospect and ensure that it occurs. I am very committed to a container deposit scheme. As the member for Nollamara, part of the area that I am lucky enough to represent includes the City of Stirling. It has a one-bin policy. Residents throw everything into one bin. Residents do not get a chance to sort out the bottles and newspapers. The council takes the rubbish off to a company that is located on Alexander Drive. There have been concerns from many residents about effluent from that company's waste disposal and also about the mechanisms of its processes. The company sorts the rubbish—or it says it sorts it. I have been there. It looks as though it is sorted. The rubbish is put into huge big bins. All the glass breaks up in the bins. Apart from a bit of hand sorting of glass, it becomes part of the material that is, as I understand it, put on paddocks to grow things. The whole idea of a one-bin deposit recycling project may be quite viable, but it is certainly not viable when the rubbish has glass containers in it. It would make things much easier if we had a better recycling system in Western Australia.

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One of the biggest problems we have with recycling is encouraging people to make the extra effort to sort out what needs to be recycled and what does not. If people have a choice, as they do in Stirling, it is just thrown into one bin and it is taken off somewhere else to be sorted. That might be very viable. I have seen the company's operation but I cannot see that it is as viable as it says it is. As much as it looks impressive, it smells pretty horrible. When all the different parts are pulled out, it still has quite a bit of waste that contaminates the ground. The company might be able to argue that that is therefore being recycled back into the ground, but I think it still looks like landfill.

We need this provision in this legislation because it is a very important factor in waste reduction, which is what this bill is about. It would show the commitment of this place, of the other house and of this Parliament. The amendment is not something that mandates anything; the container deposit scheme is something that could be easily put into place to show that we are committed to waste reduction. I note the member for Fremantle's comments that such a scheme would produce a seven per cent reduction in landfill. I note that many of the constituents in the seat of Nollamara are very interested in pursuing container deposit legislation. I grew up in a time when we collected bottles and took them back to shops. Sometimes we talk about giving other options to young people. From the point of view of budding entrepreneurs, this amendment would give them a capacity to earn money. I commend this amendment for a container deposit scheme.

Dr G.G. JACOBS: I think we have already had this discussion about a container deposit scheme. There was quite a lengthy debate on the member for Fremantle's previous amendment. The government will not support this amendment, not because we oppose the concept of CDS but because it is already covered. Proposed section 80(1)(a) is a generic statement about programs relating to management, reduction, re-use, recycling, monitoring or measurement of waste. That generic statement is in fact inclusive of any container deposit scheme into the future.

Part 5 of the Waste Avoidance and Resource Recovery Act relates to product stewardship. We have already had this discussion. It refers to the product stewardship plans in section 45. Section 46 specifically refers to the extended producer responsibility schemes. EPR schemes include container deposit schemes. CDS is an EPR. Our argument is not about opposition to CDS as a scheme, because such a scheme has been generically covered and specifically covered in part 5, section 46 of the act, and in proposed new section 80(1)(b) on page 5 of the bill, which states —

to fund the preparation, review and amendment of the waste strategy, waste plans under Part 4 and extended producer responsibility schemes and the implementation of that strategy and those plans and schemes;

My argument is that it is already in the bill. It is interesting that the last time we discussed this, the member for Warnbro took issue with me about the waste strategy for Western Australia and said, "I don't think it says anything or much about CDS." I have a document, which I will table because it is a public document.

Mr D.A. Templeman interjected.

Dr G.G. JACOBS: He will not want this one; it is already on the public record. He said, "I don't think I can see anything in here about CDS."

Mr P. Papalia: I asked whether you could tell me whether it was in there, and you couldn't tell me.

Dr G.G. JACOBS: That is rubbish and the member knows it is rubbish. He should listen to this now. The section on product stewardship of the waste strategy for Western Australia refers to the Waste Authority assisting industry and associations and developing product stewardship schemes for priority products and materials. It refers to the review of Western Australia's involvement in the national packaging covenant and the recommendations to the minister, participating in environmental protection and Heritage Council progress, and I have said that the environment minister is part of that process. It indicates that the Waste Authority will review the levels of waste management risk for products, including priority products. Last but not least it indicates that the Waste Authority will support the introduction and operation of systems of advanced recycling and, specifically, will support the introduction of a container deposit system. I rest my case.

Mr D.A. TEMPLEMAN: I note what the minister said and I applaud that document; it is a very interesting document no doubt.

Mr P. Papalia: There are two out there.

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Mr D.A. TEMPLEMAN: I understand there are two versions. I am interested in which version it might be. Was that the one launched by the minister last week?

Dr G.G. Jacobs: There was one launched by the minister last Thursday.

Mr D.A. TEMPLEMAN: I am interested in whether that is the same one.

This amendment has been moved by the member for Alfred Cove, and I applaud the amendment. It is quite an innocuous amendment in many respects because it supports what the minister just said about the statement he referred to in the document. I think the amendment moved by the member for Alfred Cove signifies to the community that the government is serious about the introduction of such a scheme. In the document he referred to no time lines are mentioned for when Western Australia might see a container deposit scheme; all that is mentioned is the intention to provide support. The minister mentioned that the Waste Authority would support the introduction of such a scheme. We have heard from a number of speakers, both this afternoon and last week and indeed throughout debate on this bill, about the enabling element of the legislation, to which this is an amendment. In supporting the member for Alfred Cove's amendment, the opposition is simply making a clear statement to the people of Western Australia that it is the will of this Parliament to support initiatives—specifically a container deposit initiative—to improve recycling in Western Australia. I think everyone agrees that we need a vast improvement in recycling in Western Australia. The amendment, container deposit schemes and the WARR legislation increase awareness and instil in corporations and companies that create products that are consumed by men, women and children of this state, a clear signal for them to take responsibility for the waste they create in the manufacture of their products. As well as encouraging recycling, we also need to encourage businesses to be aware of waste from its conception—that is, from when a particular piece of waste is created, be it initially a container, a package or cellophane wrapping that will be wrapped two or three times around something as packaging. For the first time, we are creating within communities an understanding about waste and, ultimately, an understanding that the creators of waste products have responsibility for the life cycle of the product. It is no longer appropriate that they simply continue to create containers or products that they do not take any responsibility for once it is in the hands of the retailer or the consumer. They cannot continue to wipe their hands clean when their products are at that stage.

The member for Alfred Cove's motion is focused on creating a greater sense of responsibility among consumers and manufacturers of products. I urge members opposite to support this amendment. It should be carried unanimously. It is a quite innocuous amendment and I urge members to support it.

Mr C.J. TALLENTIRE: The issue of container deposit legislation or a container deposit scheme is one that the whole house should be supporting. I heard the minister say a few moments ago that he felt the legislation was already in place to allow for the introduction of a container deposit scheme. However, many members on his side of the house have expressed their opposition to such a scheme. I note in particular the comments of the member for Ocean Reef that, in fact, a container deposit scheme is a tax. I think it falls on the minister to make sure we have some clarity on the government's position. Some people on the government back benches have dismissed a container deposit scheme totally, while the minister himself is saying that he believes there is perhaps scope for one if we look into the terms of the legislation. I suppose we would expect that, in the hierarchy of things, the word of the minister carries the most weight. The reality is that a container deposit scheme is not given full mention in this legislation. We saw the government vote against a container deposit scheme once when we were debating the amendment moved by the member for Fremantle. At the very least, it is appropriate that this amendment moved by the member for Alfred Cove be embraced by all in this house so that we can have a container deposit scheme. This is about an approach that uses innovation to solve waste problems using a scheme that has been used in other countries that take a progressive advanced approach to dealing with waste. We should be looking at this system in those terms, rather than this arch-conservative view of waste management that we hear from some members of the government backbench, which probably reflects the true feeling of many members opposite.

A moment ago I mentioned that some backbenchers on the government side have described this as a tax. If that is the thought of members opposite, that demonstrates how little they understand about how a container deposit scheme would actually work. It is not a tax. It is curious that many of those lobbyists working for the beverage industry use that exact terminology and describe a container deposit scheme as a form of tax on soft drinks and all other kinds of beverage; they use exactly that kind of language. It is curious that that is the language used by the lobbyists in the industry. Indeed, it is the language that reflects a certain political philosophy, an ideological position, that comes out of the Coca-Cola company's headquarters in Atlanta, Georgia in the United States. Its view is that any form of extended producer responsibility is unfair on its right to make profit from selling a

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sugary drink that often has deleterious impacts on people's health. It wants to be able to sell beverages without any form of system in place that it could possibly construe as being an impediment. Therefore, it is clear that although members opposite may dispute that they have been lobbied, perhaps it has been on some sort of subconscious level that they have heard word of the beverage industry's view and how its major international players feel about a container deposit scheme.

We know from quite extensive market research that a container deposit scheme would be embraced by the people of Western Australia. It has a very high approval rating. Even a container deposit scheme of about 20c a container would be embraced by the people of Western Australia, just as it is a scheme that is embraced by the people of South Australia. It is worth noting that these programs have immediate benefits in reducing the amount of litter that one is likely to see. When I make my annual trip to the Tour Down Under in South Australia, it is quite notable that the rural roads are free from the Coca-Cola cans and other beverage containers that we see far too often on rural and suburban roads in Western Australia, not to mention the smashed glass. This amendment should be embraced.

Mrs L.M. HARVEY: I will take this opportunity to not only speak against this amendment, but also put on the record my support for the concept of a container deposit scheme. I do not believe that a system as important and as involved as a container deposit scheme should be added as a last-minute addendum to the Waste Avoidance and Resource Recovery Amendment Bill and as such I do not believe it is appropriate to include this amendment in this bill.

My electorate of Scarborough has a really serious issue with broken glass; it costs my local government authority hundreds of thousands of dollars a year to send its street sweepers on Sunday and Monday mornings to clean up after the revellers who go there over the weekend. There are certainly issues with broken glass in my electorate and also with refuse from fast-food outlets throughout the Innaloo area. I think that we need to explore the concept of perhaps addressing the source of the litter and the source of glass as a form of litter but in a different forum and in consultation with industry and the community; therefore, I do support a container deposit scheme. Perhaps the experts on the other side who seem to know a whole lot more than I do about lobbyists for the soft drink industry might be able to explain why a container deposit scheme has not been introduced in this state in the past eight years. I want to place on record that as the member for Scarborough I would support the introduction of a container deposit scheme to address some of the issues with litter in my electorate. It is a great initiative and I know that it works to reduce litter in other areas where it has been introduced. I know that it works in Michigan and other states in the United States of America. I think that on this occasion perhaps this might be something from the US that would be worth perhaps copying and emulating in this state. Therefore, I place on the record that I feel that we have been unfairly maligned by members opposite saying that we do not support recycling efforts. I do not believe that a recycling effort such as a container deposit scheme should be added as a last-minute addition to this bill. It is not consistent with the rest of the bill and it is inappropriate as an inclusion at this stage. I am emphatic in my support for a container deposit scheme and I know that many of the constituents of the electorate of Scarborough would support me in the establishment of such a scheme in this state.

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Question put and a division taken with the following result —

Ayes (27)

Mr P. Abetz
Mr C.J. Barnett
Mr I.C. Blayney
Mr I.M. Britza
Mr T.R. Buswell
Mr V.A. Catania
Dr E. Constable

Mr M.J. Cowper
Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mrs L.M. Harvey
Mr A.P. Jacob

Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr W.R. Marmion
Mr P.T. Miles
Ms A.R. Mitchell
Dr M.D. Nahan

Mr C.C. Porter
Mr D.T. Redman
Mr A.J. Simpson
Mr M.W. Sutherland
Mr T.K. Waldron
Mr J.E. McGrath (*Teller*)

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
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Noes (27)

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

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Mr F.A. Alban	Mr B.S. Wyatt

The voting being equal, the Speaker cast his vote with the ayes.

Question thus passed.

Consideration in Detail Resumed

Point of Order

Mr J.C. KOBELKE: Mr Speaker, I wonder whether you are willing to enlighten the house as to when the last time was that the Speaker in this place had a casting vote to stop debate on a matter.

Several members interjected.

The SPEAKER: Members, there is no point of order, but I can, for the member’s enlightenment, inform the member that the last time I used the casting vote was in fact in the election of the Deputy Speaker.

Debate Resumed

Several members interjected.

The SPEAKER: Members!

Amendment put and a division taken with the following result —

Ayes (27)

Ms L.L. Baker	Mr W.J. Johnston	Mr A.P. O’Gorman	Mr C.J. Tallentire
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr P. Papalia	Mr A.J. Waddell
Ms A.S. Carles	Mr F.M. Logan	Mr J.R. Quigley	Mr P.B. Watson
Mr A.J. Carpenter	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Mr M.P. Whitely
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Mr P. Abetz	Mr M.J. Cowper	Dr G.G. Jacobs	Mr C.C. Porter
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Mr I.C. Blayney	Mr J.M. Francis	Mr A. Krsticevic	Mr A.J. Simpson
Mr I.M. Britza	Mr B.J. Grylls	Mr W.R. Marmion	Mr M.W. Sutherland
Mr T.R. Buswell	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr J.E. McGrath (<i>Teller</i>)
Dr E. Constable	Mr A.P. Jacob	Dr M.D. Nahan	

Pairs

Mrs M.H. Roberts	Mr G.M. Castrilli
Mr B.S. Wyatt	Mr F.A. Alban

The voting being equal, the Speaker cast his vote with the noes.

Amendment thus negated.

The SPEAKER: Members, those of you who wish to stay in the house should stay. If there are further discussions you want to have outside this place, I suggest you take them outside the house.

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Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Point of Order

Mr M. McGOWAN: Mr Speaker, I seek your ruling on the question being put at a time when there is an amendment on the notice paper to this particular clause to debate a matter of significant public interest. The reason I seek your guidance is that I understand the gag being moved on an ordinary clause, but the Leader of the House is moving the gag before such time as the house has had the opportunity to debate the amendment, which has been sitting on the notice paper for a week or two weeks. I ask that you rule on whether it is within the standing orders to allow this clause to be put without us having the opportunity of debating our amendment.

The SPEAKER: Members, as to whether the amendment is on the notice paper or not, it being on the notice paper does not give it any special privilege in this place. Therefore, I am going to put the question.

Mr D.A. TEMPLEMAN: In the first division, Mr Speaker, you used your casting vote in favour of the government. If you intend to use your casting vote to do the same on this question, I would caution you not to do it, because I think you would not be allowing proper debate on a very important clause.

The SPEAKER: Thank you for that advice, member for Mandurah.

Debate Resumed

Question put and a division taken with the following result —

Ayes (27)

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

Noes (27)

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

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Mr F.A. Alban	Mr B.S. Wyatt

The voting being equal, the Speaker cast his vote with the ayes.

Question thus passed.

Consideration in Detail Resumed

The SPEAKER: The question is that clause 8 stand as printed.

Clause put and a division taken with the following result —

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Ayes (27)

Mr P. Abetz	Mr M.J. Cowper	Dr G.G. Jacobs	Mr C.C. Porter
Mr C.J. Barnett	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.T. Redman
Mr I.C. Blayney	Mr J.M. Francis	Mr A. Krsticevic	Mr A.J. Simpson
Mr I.M. Britza	Mr B.J. Grylls	Mr W.R. Marmion	Mr M.W. Sutherland
Mr T.R. Buswell	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr J.E. McGrath (<i>Teller</i>)
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Noes (27)

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

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Mr F.A. Alban	Mr B.S. Wyatt

The voting being equal, the Speaker cast his vote with the ayes.

Clause thus passed.

Clause 9: Section 81 amended —

Mr M. McGOWAN: I intend to speak on clause 9. I have a lot to say on this particular clause. Clause 9 follows on from clause 8.

Point of Order

Mr R.F. JOHNSON: I have a point of order.

Several members interjected.

The SPEAKER: Members! I have given the member for Rockingham the call, as is appropriate. If there is a point of order in this place, I want to hear it; I do not want to hear from anybody else.

Mr R.F. JOHNSON: The point of order I was going to make was simply —

Several members interjected.

The SPEAKER: I would prefer to hear this point of order in silence. That includes you, member for Perth.

Mr R.F. JOHNSON: The point of order I was going to make was simply to try to ensure that the minister’s advisers had returned to the table before members opposite or on this side continued to debate this clause. They are there now; it is not a problem.

Debate Resumed

Mr M. McGOWAN: What a fatuous point of order!

Clause 9 refers to the Auditor General’s involvement. If the Auditor General could be here today to see what has gone on with this legislation, he would be shocked and appalled by the behaviour of this government and the undemocratic, jackbooted, quasi-fascist way in which it has run debate in this house.

Withdrawal of Remark

Mr R.F. JOHNSON: The manager of opposition business is using extremely unparliamentary language and is reflecting adversely on other members of the house, and I ask him to withdraw those comments.

Mr M. McGOWAN: I did not refer to any particular member.

The DEPUTY SPEAKER: Just temper your language and proceed, please.

Debate Resumed

Mr M. McGOWAN: If the Auditor General were here and observed this debate, he would be shocked and appalled by the way in which this government has handled this legislation. We had a significant debate —

Mr R.F. Johnson: We have given you 17 hours on it! What are you talking about!

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Mr M. McGOWAN: The Leader of the House probably would not know who he was, but he reminds me so much of Oswald Mosley that it is extraordinary.

Mr R.F. Johnson: It is a typical comment from the member.

Mr M. McGOWAN: The Leader of the House would not know who he was!

Mr R.F. Johnson: I know exactly who he was, my friend!

Mr M. McGOWAN: The member's knowledge of history would be so tiny that he would not know who he was!

The Auditor General would be shocked and appalled by the behaviour of the government in debating this bill. We just debated a container deposit scheme. It was a very close-fought argument in this house that was decided by a single vote. Instead of allowing the clause to be properly debated, the government moved the gag. To compound matters to an even greater degree, when an opposition amendment on this clause was going to be debated—a serious amendment put on the notice paper by the member for Gosnells about the issue of nuclear waste, which he cares deeply about and, indeed, which all members of the opposition care deeply about—the government moved the gag without even allowing us to debate that clause. That gag—without allowing members to debate that amendment—was supported by none other than the member for Churchlands. The member for Churchlands has for 16 years railed against the use of the gag and the guillotine, and at the first available opportunity, in particular at this shocking opportunity a moment ago, she votes for it!

Point of Order

Mr J.M. FRANCIS: I have two points: I am struggling to hear a single word spoken by the member for Rockingham; and, secondly, when it comes to relevance, I do not see the relevance in what he is talking about.

The DEPUTY SPEAKER: There were about four different meetings going on in this house. If anybody wants to have a private meeting, go outside. The second thing is that we are debating clause 9, "Section 81 amended". I know that opposition members are unhappy with what happened with the previous clauses, but it has nothing to do with this clause. Please debate this clause.

Debate Resumed

Mr M. McGOWAN: I am debating what the Auditor General, who is the subject of this clause, would think of the improper processes put in place by this government for this legislation. I constantly referred to the Auditor General, who is mentioned in this clause. The Auditor General is tasked with ensuring that the government is being run effectively, efficiently and fairly. That is his job. Therefore, in the context of discussing the Auditor General, I am debating the fact that this legislation is not being dealt with fairly, efficiently and effectively by the government. It would have been a fair thing for the government to provide the opposition with 15 to 20 minutes or half an hour up to the dinner break to discuss the issue of nuclear waste and the funds from this legislation being used for the purposes of nuclear waste. Because these votes are so incredibly close, the government is afraid it will lose one. Therefore, the Leader of the House waited until everyone was in the chamber before he moved the gag because he knew he had the numbers at that time. That is an undemocratic thing for the Leader of the House to do. All the government members who claim to believe in democracy should be completely and utterly ashamed of themselves for what they have done during this debate. They have denied a member of this house, elected by his constituents, the opportunity to move an amendment to this legislation that he cares deeply about.

Mr C.J. Barnett: What was the amendment on?

Mr M. McGOWAN: As I said, it was on nuclear waste.

Mr C.J. Barnett: Totally irrelevant.

Mr M. McGOWAN: The Premier says that the issue of nuclear waste is irrelevant. Because the emperor says that it is irrelevant, we cannot debate it in this house. Does the Premier think he is a dictator? He comes out with these statements and he says that this democratically elected house cannot debate something. That is an absolute disgrace.

Mr P. PAPALIA: I would also like to address clause 9. I note, too, that it includes reference to the Auditor General Act 2006. That is appropriate because the Auditor General is responsible for ensuring transparency of the workings of government departments. It is appropriate that he be included in the amendment relating to the outrageous 300 per cent increase in the waste levy that has been proposed without adequate debate, scrutiny or transparency.

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Dr G.G. Jacobs: You're harking back to clause 8 again. Get on with this one.

Mr P. PAPALIA: I am going to refer to the Auditor General's role in the government of Western Australia. It is appropriate that he is included in this clause. How ironic that we have had to sit through this disgraceful exhibition of the government shutting down debate in the Parliament on possibly one of the most controversial pieces of legislation that we have debated this year. The government is educating all its members on the back bench about a process in the Western Australian state Parliament; it is educating them how to behave in the future —

Mrs C.A. Martin interjected.

The DEPUTY SPEAKER: Member for Kimberley, I call you for the first time.

Mr P. PAPALIA: The government is telling impressionable new members of Parliament that this is the appropriate way to behave and this is the way that a Speaker should behave in the Westminster system. Given the opportunity to support freedom of speech, our Speaker has voted to close down debate on a matter as simple as allowing debate on an amendment moved by the member for Gosnells proposing that funds from the waste avoidance and resource recovery account must not be used to research, investigate or trial nuclear waste sites in Western Australia.

Withdrawal of Remark

Mr R.F. JOHNSON: Mr Deputy Speaker, I draw your attention to the comments made by the member for Warnbro that reflect on the Chair, comments which quite frankly are a disgrace. He should be made to withdraw those comments immediately.

Mr P. PAPALIA: Mr Deputy Speaker, in so much as I may have reflected on the Chair, I withdraw that statement.

The DEPUTY SPEAKER: The member for Warnbro may continue.

Debate Resumed

Mr P. PAPALIA: I am concerned about what the Auditor General may feel and may observe about the behaviour that we have seen in this place with regard to transparency. The government has dictated that no-one can discuss an amendment moved by the opposition on one clause.

Mr R.F. Johnson: You say what you like about me but don't reflect on the Chair.

Mr P. PAPALIA: If the Chair acted in a fair fashion, I would acknowledge that.

Mr R.F. Johnson: You'll get thrown out otherwise, my friend.

Mr P. PAPALIA: Why is the Leader of the House speaking? He is not sitting in his seat. He should not speak.

The DEPUTY SPEAKER: Member for Warnbro!

Mr P. PAPALIA: I know that deep down within the minister's own heart, this does not sit right with him. It is inappropriate that this debate is being gagged. We were not given the opportunity to debate an amendment placed on the notice paper by the member for Gosnells. It was quite a reasonable amendment. Very little time has been allocated to this debate. It is a controversial matter.

We could ask any local government in the metropolitan area whether it thinks this is a controversial matter. Which member of Parliament in this place has not received an email from the Western Australian Local Government Association asking him or her not to pass this legislation until he or she considers it more thoroughly? The Premier has put his hand up, but he does not read his emails. I know that every single member of Parliament received an email from WALGA. Every member on the other side of the house ignored the request from the good and honest representative of the people, the mayor of Joondalup, who wrote on behalf of the president of WALGA to every single member of this place and begged us not to pass this legislation.

Ms A.S. Carles: Will you accept an interjection?

Mr P. PAPALIA: Yes, gladly, but the member has to be in her chair to do it. I will keep talking while the member for Fremantle returns to her seat; then I will happily accept her interjection.

Ms A.S. Carles: I personally wrote to every member of the Liberal Party about this legislation.

The DEPUTY SPEAKER: Is the member for Fremantle taking a point of order?

Ms A.S. Carles: I am interjecting. I was just clarifying something.

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Mr P. PAPALIA: The member for Fremantle also wrote to every member of Parliament. Every single member of Parliament on the other side of the house knows that this is a controversial subject and that they are doing the wrong thing, yet they are going ahead with it. Not only are they going ahead with it, but also they are preventing adequate and open debate. They should be ashamed of themselves.

Mr J.M. Francis interjected.

Mr P. PAPALIA: Shame on the member for Jandakot. Shame on all members opposite. This is appalling and atrocious behaviour and it is a bad day for Western Australia.

Mrs C.A. Martin interjected.

The DEPUTY SPEAKER: Are you finished, member for Kimberley?

Mrs C.A. Martin: Not yet.

The DEPUTY SPEAKER: I suggest that you finish very quickly. I call you for the second time.

Mr D.A. TEMPLEMAN: What we have seen this afternoon is a very clear —

Mrs C.A. Martin interjected.

The DEPUTY SPEAKER: Member for Kimberley, I have asked you to stop. Will you please stop now.

Mrs C.A. Martin: I thought I was in a democracy. I might be wrong there.

The DEPUTY SPEAKER: I call you for the third time.

Mr D.A. TEMPLEMAN: I think the member for Kimberley is sharing the disgust that the opposition now has for the government's tactics. It is certainly shared by some Independents who sit on the other side of this chamber. It is very clear that the opposition is appalled that we have not had the opportunity to debate an amendment that has been sitting on the notice paper.

Mr P.T. Miles interjected.

Mr D.A. TEMPLEMAN: The member for Wanneroo should not start. He is a wombat. He crawls down his hole and yaps away. It is appalling. He should start standing up for the people of Wanneroo, who will be faced with a 300 per cent increase in their levies.

The DEPUTY SPEAKER: I really do not want to have somebody ejected from the chamber. Members, please temper your language and temper your styles.

Mr D.A. TEMPLEMAN: The member for Wanneroo continues to call out and interject. He needs to understand that the opposition is arguing on behalf of the taxpayers of Western Australia. He should be standing up for the people whom he supposedly represents in his electorate, because this bill creates a 300 per cent increase in the levy. That is what this opposition is wanting to do by way of an amendment. The member for Wanneroo has supported moves for the debate to not even take place in this house. If he keeps interjecting, he should be thrown out of this place, not the member for Kimberley. The member for Wanneroo is a disgrace! He has voted in support of a gag motion that has prevented an amendment being debated in this place. It might be prudent for the member to grab hold of some conventions and start looking at what should happen in this place. It is the right of the opposition to bring forward motions and it is the right of the opposition and Independent members to bring forward amendments. It is not, in my view, the right of the government to simply gag debate so that motions and amendments cannot even be debated. The member needs to understand why we are so angry about this. Rather than interjecting with his smart interjections —

The DEPUTY SPEAKER: Member for Mandurah, I have already gone over your disquiet about the debate being gagged. That is not what we are now dealing with. We are dealing with clause 9, so will you please come back to clause 9.

Mr D.A. TEMPLEMAN: The Auditor General himself has made comment on what I have been speaking about in the past three minutes. We are now, of course, debating clause 9. In debating clause 9, I am disgusted with what has happened this afternoon. Quite clearly, we have seen a disgraceful performance by the government. In seeing that, the government has put the Speaker in a very tenuous situation. I am not reflecting on the Chair in this. However, I believe that what happened this afternoon or early this evening has put the Speaker in a very compromised position. His ruling, which saw his casting vote in support of the government's gag, is what has got this opposition and other members who sit in this place as Independents or representatives of the Greens party so angry. Yes, we have debated this bill for 17 hours. I have heard the Leader of the House speak on a number of occasions about the time we have spent on the bill. However, the reason we have spent so much time

Extract from Hansard

[ASSEMBLY - Tuesday, 22 September 2009]

p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

on this bill is that this opposition and some members on the other side have a very strong view that the taxpayers of Western Australia should not be burdened by this government with another tax. With this bill, we are debating a 300 per cent increase in the landfill levy. It is a blatant misuse of the original intent of the legislation. That is why members on this side and some Independents on the other side have spoken so strongly against the tactics of the government.

What we have in front of us in clause 9 is an insertion of the words “and the Auditor General Act 2006”. In speaking to that, I hope that when it comes to a vote on this and other clauses, and, indeed, further amendments, the government members, who so disgracefully voted to gag debate before we had a chance to even debate a particular amendment, might reconsider their actions in the next few minutes, because if they do exactly the same thing, they will be condemned as being totally undemocratic.

Mr A.J. WADDELL: Clause 9, “Section 81 amended”, inserts “and the Auditor General Act 2006”. It is ironic that we see a clause to do with the Auditor General coming in at this point in the debate, when we have seen that the government is quite clearly afraid of the scrutiny of this place of the very bill that we are discussing today. In fact, alarm bells are ringing, not only as a result of the disgrace that we have just observed whereby proper debate could not go forward and amendments were overridden without any debate, but also over a number of other things. I would like to remind this house of a few things. Firstly, I ask members to cast their minds back to the estimates committee hearings only a few months ago when the Auditor General appeared before us. A question was put to the Auditor General about resourcing and whether his office was appropriately resourced to deal with a number of these complex issues that are before us today. At that time it was made very clear to us that considerable strains were being placed on that office and that it had an inability to carry out its function properly without appropriate funding. In particular, that related to the three per cent cuts that all government departments have been forced to make.

Here we are inserting the Auditor General Act into yet another act, which will no doubt increase that burden on the Auditor General’s office ever further. I suppose we have to ask ourselves: are we really doing this in name only? Do we really care about scrutiny? I say that because apparently we can now stand before the people of Western Australia and say that 18 hours discussing a bill, which will result in their levies being tripled, is too long. We do not want to discuss it. We are going to build this huge edifice, we are going to employ all these people, and we are going to have this whole system, but we are not going to allow it to actually function; we are not going to allow it to debate and discuss bills. No, we are going to waste Parliament’s time with dorothea dixers and we are going to waste Parliament’s time with cheap point-scoring. We are not going to do the job of the Parliament, which is to properly scrutinise acts of this place. I think that that is absolutely disgraceful. It is beyond belief that the government would choose the particular clause that it did to shut down debate. It is beyond belief that it is so opposed to the concept of recycling containers that it feels the need to shut down debate, when quite clearly the general population is in favour of such a thing, and when quite clearly the general population would be concerned about amendments such as the member for Gosnells’ amendment about nuclear waste disposal. Yet for some reason we choose to thumb our noses at the people of Western Australia.

I am concerned about clause 9 in the sense that it inserts into section 81(1) after “Financial Management Act 2006” the words “and the Auditor General Act 2006”. If we look at the principal act, we see that the section is in fact titled “Application of Financial Management Act 2006”. Therefore, it seems to me that there would need to be some retitling of that section to properly reflect the fact that we are inserting the Auditor General Act 2006, to make it quite clear to people that in fact the Auditor General has scrutiny over this task. That is very important, particularly as in this bill discretion is moving to the minister for expenditure of some of these collections. We will no longer see all the money raised by the waste levy going to that purpose. When that level of discretion is given to a minister or a department, we need to ensure that there is as much scrutiny as possible. In looking for that scrutiny, people will comb through this bill to try to find where the safety measures are and where it is hoped that the system will correct itself when there are abuses. Of course, they will be looking to the Auditor General. Therefore, I believe that we need to go out of our way to highlight, where we can, that the Auditor General has proper control and oversight of this matter.

Finally, to wrap up, because I see that my time is running out, we need to give serious consideration to the financial viability of the Auditor General to properly carry out his function under this legislation, and also in many other areas. I echo the comments of the member for Mandurah. Now is the time to reconsider the events of the past half-hour and send a clear message that this Parliament believes in democracy and believes in debate. We need to reconsider some of the things that have just occurred.

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Mr C.J. TALLENTIRE: After the outrageous happenings of this afternoon, it is disappointing to feel that we have missed an opportunity to see where the government of Western Australia actually stands on two important issues, one being the issue of container deposit schemes and the other being the disposal of nuclear waste in Western Australia. The government has declined to take the opportunity to debate either of those issues. It has gagged debate on those matters.

The DEPUTY SPEAKER: Member for Gosnells, I have already brought to the attention of the house on three occasions that we are dealing with clause 9, which states —

Section 81 amended

In section 81(1) after “*Financial Management Act 2006*” insert:

and the *Auditor General Act 2006*

I want those members who are in the house to hear what section 81 states, which is —

Application of *Financial Management Act 2006*

(1) The provisions of the *Financial Management Act 2006* —

Then the words “and the Auditor General Act 2006” will be added —

regulating the financial administration, audit and reporting of departments apply to and in relation to the WARR Account.

That is what we are dealing with here. If you have got any questions regarding the insertion of the Auditor General Act relating to that, then that is what you should be addressing, not some vague generality that the Auditor General Act is now included and you can talk in general terms about the Auditor General Act. That is not what this says. Please stick to what is on the notice paper before us and the section that has been amended.

Mr C.J. TALLENTIRE: I was about to say how outrageous it is that not only has the government gagged debate today, but also its drafting of this legislation is shoddy. Frankly, it is shoddy. When we read the insertion that is proposed in clause 9 of the amendment bill, it states that we are to insert—as the Deputy Speaker has highlighted—“and the *Auditor General Act 2006*”. If we go to the Waste Avoidance and Resource Recovery Act, it states “the *Financial Management Act 2006* Part 5”. The insertion is not in a logical position. I think the minister needs to clarify that.

The purpose of this house must be to question the legislation, not to stymie debate. We must ensure that we have full discussion and we make a full analysis of all sections of proposed amendments. Our minds must be open to amendments put forward by the opposition. It seems that the government has a general disdain for an amendment that is put forward by the opposition. That is a form of arrogance that I think is unacceptable. We need to accept that often in this chamber there are opportunities for legislation to be improved by amendments moved by the opposition. We have missed that opportunity on numerous occasions during this sitting of Parliament. That is outrageous. We must make sure that we get the best possible legislation for the people of Western Australia and that debates are properly had. Whether it is on broader issues, such as container deposits, nuclear waste or on the placement of individual clauses, we have to go into the detail. It is an absolute disgrace that we have not been able to do that in the house today.

Mr A.J. Carpenter: Could the member explain how the clause would read if the amendment were inserted?

Mr C.J. TALLENTIRE: I thank the member for Willagee. If the clause were inserted in the fashion that is being proposed, according to the version of the Waste Avoidance and Resource Recovery Act that I have been given by the attendants today, it would read, “*Financial Management Act 2006* and the *Auditor General Act* Part 5”. The minister needs to clarify what is going on with the shoddy drafting of legislation here.

Mr F.M. LOGAN: I will also speak to clause 9 of this bill and refer to the Auditor General Act. I draw the minister’s attention to part 4 section 27 of the Auditor General Act; that is, the powers and functions of the Auditor General. The role of the Auditor General is to oversee the functions of the department and also the fund itself, but he or she does not have the power to investigate and inquire into the roles and functions of the local government itself. In the first instance, the local government authority is the first point of call for the collection of waste levy moneys that will eventually end up in the fund. Given how many landfill sites there are in Western Australia and how many councils are involved in those landfill sites, by simply having the reference to “Auditor General Act”, the minister is not specifying the functions of the Auditor General to ascertain whether the full chain of control of the payment of that moneys will be audited and can be audited by simply reference to

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

“Auditor General Act”. It does not go into the functions and form of how that audit is to take place and it also does not go into the powers of the Auditor General to delve into the processes of collection of the waste levy funds in the first place. Once that money is collected by local government, what do they do with the money; how long do they hang onto the money; do they invest that money; what return do they get on the money; what do they do with the interest on that investment; and do they keep that interest or is that interest then passed on as part of the collection of the levy?

The minister has a major problem here because of the broad wording. Is the minister expecting that it will somehow legitimise quality assurance of the way in which the fund is to be managed by simply referring to “Auditor General Act 2006”? The minister should actually specify very clearly how the Auditor General is to carry out his or her functions under that act, or under another act, that would allow the auditor to have full access to how the funds are collected in the first place and the chain of control of those funds from the gate at the landfill tip all the way through to the actual fund that is controlled by the department itself. This clause does not provide any security for oversight of the fund in the first place. I think this is a major problem for the minister.

Ms J.M. FREEMAN: I rise, too, to ask questions about clause 9 and the amendment to section 81(1), after “Financial Management Act 2006” to insert “and the Auditor General Act 2006”. When I look at the explanatory memorandum, it tells me the same thing as the bill. It does not tell me in any great detail why this is necessary in terms of being able to monitor the application of this act; how the Auditor General will do that; and what sort of role the Auditor General will have. Taking the points that the member for Cockburn outlined, I was also interested to know that through the provisions of this act the minister will be able to allocate the money as he or she sees fit or how the variations in levy will be set. I am seeking answers to those questions.

The member for Forrestfield and I attended the estimates committee hearing at which the Auditor General expressed concerns about his capacity to be able to fulfil his functions. The Auditor General and his department do a very fine job. The Auditor General recently addressed the Joint Standing Committee on Delegated Legislation in a public hearing with respect to fees and charges. The major issue might be minor in the scheme of things, but obviously it is very important to those who will administer it to ensure that the fees and charges paid are fair and reasonable. One of the comments from the Auditor General was that he had competing demands and limited resources and therefore he was limited in applying his department to that area. It seems quite interesting that we are here discussing the Waste Avoidance and Resource Recovery Amendment Bill that is going to increase the levy by 300 per cent to support a department whose funds were slashed in the recent Liberal-National government budget. We are now placing greater demands on that same department. One wonders whether we will be back in here seeing an Auditor General Act that will have to increase fees and charges to be able to support its operations and to undertake all of the things that we believe it has responsibility for. I thought that one of the processes of the Financial Management Act is that the department’s role is to be able to monitor itself.

I agree with the member for Cockburn that the Auditor General has been placed in the position to look at how local governments levy this. He must ensure that the funds are used properly and appropriately. I understand that a number of councils have collected this levy and then, because of the need for this legislation to come before us, the levies have not necessarily been distributed. It is with that in mind that I am interested to know, as is the member for Cockburn, how the Auditor General would have an impact in that particular area. It is of concern to me, especially as a new member of this house, when we come to look at these sorts of things.

Sitting suspended from 6.00 to 7.00 pm

Ms J.M. FREEMAN: I was trying to gain an understanding of the provisions of clause 9, “Section 81 amended”, and the intent of the amendment. As I said, the intention is not clear from the explanatory memorandum and it does not appear clear from the second reading speech. I suppose I am looking for an answer on whether it is for performance or financial purposes, given that the words “and the Auditor General Act 2006” are to be inserted after the words “Financial Management Act 2006”. I suppose the question I pose is: is that a duplication or is it separate? As I have said, clearly that amendment will create issues of resourcing for the Auditor General. Will that resourcing come out of the levy to ensure that the Auditor General can undertake the task as required? I suppose the other question I have is: will the Auditor General report to the Parliament, as the Auditor General does on an ongoing basis? These matters are quite important for the Auditor General in looking at the operation of the Waste Avoidance and Resource Recovery Act. The Auditor General often goes beyond financial issues and into performance areas when looking at the capacity and undertaking of departments to prosecute the major roles of those departments. We have seen various very good reports of that, one being the Bush Fires Amendment Bill that is before Parliament. I am referring to the operations of departments and how they implement their roles and I suppose my question to the government is: will the Auditor General be doing

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that with the Waste Avoidance and Resource Recovery Act, the Waste Authority, and the Department of Environment and Conservation? How do they all marry together and why have we gone down this path of placing the Auditor General Act in this clause? Was it a requirement because the legislation will now change a mainly taxing act—that is, from being an act that taxes for the purpose of meeting the levy—to a broader act that will be used as a funding mechanism for a department that had its funding slashed in previous budgets? I might add that some of the biggest funding cuts will undermine some of the fundamental concerns about this bill. In fact, will the Auditor General be able to look at the issues that have been brought before us in this place? Can the Auditor General, by this amendment to the act, look at waste deposit schemes and their capacity to be met, as we heard in debate on previous clauses?

I, like my colleagues, stand in this place today debating this clause because we know that one of the fundamental roles of the Auditor General is to look at the operation of governance. I have been fortunate enough to have had some training on governance in my role as a board member of superannuation funds, particularly on the requirements of the Australian Securities and Investments Commission. Governance is an extremely important theme for us in this place today. To see the government gag a debate prior even to the member for Gosnells talking to his amendment clearly made me wonder how the government could move on to another clause on the Auditor General's Act that goes directly to the heart of good governance. I therefore have those questions for the minister. I agree with the member for Cockburn about the importance of clarification of how this clause will play out with local governments, how they will administer the levy, how they will ensure that the levy is put to good use and how they will ensure that the levy meets the requirements of the act.

Mr F.M. LOGAN: With reference to clause 9, "Section 81 amended", and to some of the points I was making earlier, I ask the minister about the reference in clause 9 to the Financial Management Act 2006. In particular, I draw the minister's attention to part 2, section 7 of the Financial Management Act, which goes to defining what the act is all about in terms of how it can be applied for the purposes of the Waste Avoidance and Resource Recovery Amendment Bill. Specifically, part 2, section 7 refers to the public ledger and effectively defines those aspects of the accounts of government to which the act applies under the public ledger. Those accounts are the consolidated account, the Treasurer's advance account and the Treasurer's special purpose account. Like the point I made earlier about the Auditor General Act and the failure of the Auditor General Act, it does not then extend further down to those accounts that are held by local governments. Again I draw the minister's attention to the chain of custody for the funds that are gathered by local government. For the purposes of assessing how those funds are managed, what happens to those funds when they are held by local governments; how long are they held by local governments; does interest accrue during the period they are held by local governments; and what happens to the interest and is it passed on to the funds themselves or held by the local governments? Like the points I made earlier about reference to the Auditor General Act 2006, it appears quite acceptable at face value to refer simply to the Financial Management Act 2006 and assume that that act will deal with all aspects of this fund and how it is managed. Of course it does not. It cannot, because the Financial Management Act 2006, along with the Auditor General Act 2006, does not extend all the way down to the other players in the chain of custody of the funds and the moneys themselves that are collected for the purpose of this levy. It does not go that far. I would certainly like to hear the minister's response to those issues and how he thinks that simply referring to the Financial Management and Auditor General Acts 2006 under this clause will deal with that issue. From my reading of both acts, it is clear that they cannot deal with the extent to which the funds go all the way to the gate of the landfill site either for the purpose of auditing the chain of custody of those funds or for the purpose of good financial management, which is the whole purpose of the Financial Management Act. I would like to hear how the minister thinks those acts are able to deal with those parts that are clearly governed by the Local Government Act. If they cannot, why has he referred to them in the first place? If they cannot, what does he intend to do to ensure that his objectives are met—that is, the auditing of that fund, the chain of custody and the financial control of the fund through the Financial Management Act—and how will he overcome the problem if those acts cannot meet that objective?

Dr G.G. JACOBS: I thank members for their comments. I will try to address each of their comments from my notations. This is a standard amendment recommended by Parliamentary Counsel's Office. There is no issue of this being a Trojan Horse or a hidden agenda. It inserts into section 81 application of the provisions of the Financial Management Act 2006 and the Auditor General Act 2006 regulating the financial administration, audit and reporting of departments applied to in relation to the WARR account. It is scrutinising, if we like, under the Financial Management Act. In his first address, the member for Cockburn asked me about the Auditor General's functions, as it were. Basically, the Auditor General's functions are described in the Auditor General Act.

Mr F.M. Logan: They do not extend all the way down to local government.

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Dr G.G. JACOBS: I will get to that. That was his first sojourn. His second sojourn was about part 2, section 7, the public ledger, and how far that would go down the chain to local government. Quite honestly, auditing of local government is done by the auditors of local government. That is their arrangement. The levies are collected from landfill operators and those costs are essentially their business. We are not about auditing local government. We are talking about the Auditor General auditing the agencies and the responsibilities of the state government. The member asked in his first address whether I could describe those functions of the Auditor General in detail. His functions are described in the Auditor General Act. This is about auditing—reporting—but it is not about auditing local government because, as he knows, we have talked about the different local government instrumentalities. We have talked about the cities and how some of them may have raised some of the levy already. They might have had an overtake. Their financial arrangements will be audited by their auditors. To suggest that this goes right down to the bottom of the chain, as it were, and it is the responsibility of the Auditor General to audit financial functions of a local government, I believe, is unreasonable and is not how it works.

Mr F.M. Logan: This is an unusual situation. It does not work like that normally, but for this particular fund it does, because the money that is collected at the gate comes all the way back to funding for certain functions of the department. It is not local government money; it is state government money.

Dr G.G. JACOBS: I have read out previously a City of Joondalup invoice for refuse collection. It contains a component, part of which is to do with the levy. An example was \$10, which is increased to \$34. That is administered by that local government jurisdiction. They all have their own auditing arrangements for accountability and how that works.

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Question put and a division taken with the following result —

Ayes (25)

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

Noes (25)

Ms L.L. Baker	Mr W.J. Johnston	Mr A.P. O’Gorman	Mr P.B. Watson
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr P. Papalia	Mr M.P. Whitely
Ms A.S. Carles	Mr F.M. Logan	Mr J.R. Quigley	Dr J.M. Woollard
Mr A.J. Carpenter	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Mr D.A. Templeman (<i>Teller</i>)
Mr R.H. Cook	Mr M. McGowan	Mr T.G. Stephens	
Ms J.M. Freeman	Mrs C.A. Martin	Mr C.J. Tallentire	
Mr J.N. Hyde	Mr M.P. Murray	Mr A.J. Waddell	

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Dr K.D. Hames	Mr B.S. Wyatt
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

The voting being equal, the Speaker cast his vote with the ayes.

Question thus passed.

Consideration in Detail Resumed

Extract from Hansard
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Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Clause put and a division taken with the following result —

Ayes (25)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr C.C. Porter
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr D.T. Redman
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr T.K. Waldron
Mr I.C. Blayney	Mr J.M. Francis	Mr W.R. Marmion	Mr A.J. Simpson (<i>Teller</i>)
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	
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Noes (25)

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Mr A.J. Carpenter	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Mr D.A. Templeman (<i>Teller</i>)
Mr R.H. Cook	Mr M. McGowan	Mr T.G. Stephens	
Ms J.M. Freeman	Mrs C.A. Martin	Mr C.J. Tallentire	
Mr J.N. Hyde	Mr M.P. Murray	Mr A.J. Waddell	

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Dr K.D. Hames	Mr B.S. Wyatt
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

The voting being equal, the Speaker cast his vote with the ayes.

Clause thus passed.

Clause 10: Schedule 2 amended —

Mr J.C. KOBELKE: I hope the minister can answer some questions to clarify issues I have with clause 10. This clause inserts two new items into schedule 2, and amends another item of that schedule. I will put this into context of what we are seeking to do. This amendment follows from the amendments made to section 80 of the Waste Avoidance and Resource Recovery Act. Section 80 has five subsections, but in a previous clause of this bill, we deleted subsections (1) and (2). I will put it on the record so that we are clear about what is happening here, and therefore hopefully the minister will understand the intent of the question I would like him to try to answer. Section 80(1) currently reads —

Moneys held in the WARR Account may be applied by the Waste Authority, in a manner that is consistent with the current business plan or is approved by the Minister —

- (a) to fund programmes relating to the management, reduction, reuse, recycling, monitoring or measurement of waste; and
- (b) to fund the preparation, review and amendment of the waste strategy, waste plans under Part 4 and extended producer responsibility schemes and the implementation of that strategy and those plans and schemes; and
- (c) in payment of the costs of administering the WARR Account (including the costs of collecting levies and penalties and support and evaluation services).

Those words were deleted by clause 8 of the bill, and reinserted with a little change at the top that the minister might be able to talk about later. However, that is not the point of the question now. Section 80(2), as it now stands in the act, reads —

The Waste Authority must —

- (a) seek the advice of such other entities as the Waste Authority thinks fit as to the setting and variation of a levy; and
- (b) from time to time develop and publish a statement of the objectives to be achieved by programmes funded under this section.

The matter now before the house is to insert into schedule 2 the two paragraphs of section 80(2) that were deleted by clause 8. The first question that I would like the minister to try to answer is, why is it seen as more

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appropriate that these requirements that currently in the act have a “must” in front of them—that is, the Waste Authority must do both of these things—are now moved to a schedule where it is simply stated that these things can be done or are the general functions of the Waste Authority? Can the minister say why things that are currently in the act as clear obligations of the Waste Authority will become simply its general functions, without that level of obligation?

Dr G.G. JACOBS: I am advised that these provisions are to be placed in an area in which all the functions of the Waste Authority are listed. The other question was about “may” or “must”.

Mr J.C. Kobelke: The act presently says “must”, but once these provisions are relegated to the schedule, that level of obligation is no longer placed on the authority.

Dr G.G. JACOBS: I am advised that, to act as an advocate for the objects of this act, the authority is able to seek advice as it thinks fit. It is not prescriptive as to whether it should be “must” or “can”.

Mr J.C. Kobelke: I understand that, but why are you watering down that obligation on the Waste Authority?

Dr G.G. JACOBS: It does not say that we are watering it down; it just describes it as it is.

Mr J.C. KOBELKE: I think the minister is trying to duck the question. The current section 80(2) states that the Waste Authority “must”; it does not say “may”, “might”, or “has a general obligation to”. It makes it absolutely clear that the Waste Authority must do two specific things relating to the levy and the funding. The first function is to seek the advice of such other entities as the Waste Authority thinks fit about the setting and variation of a levy, and the second is to from time to time develop and publish a statement of the objectives to be achieved by programs funded under this section. Both of those are, almost verbatim, what we are inserting in schedule 2 with this clause. There is a little variation that I will come back to later. The change that is clear to me is that the minister is removing the level of importance of the Waste Authority to fulfil these things because the minister is removing the requirement that the authority “must” do them and is placing in the schedule the general functions of the Waste Authority. The functions are the things that it is expected to do, but if the Waste Authority judges that it is not necessary or appropriate to do them for that purpose, the government cannot enforce those provisions because they are under a schedule. Section 80(2) of the Waste Avoidance and Resource Recovery Act contains the word “must”, which is a directive that requires the Waste Authority to do those things. Will the minister provide an explanation about why he has watered down the responsibility of the Waste Authority?

Dr G.G. JACOBS: I can see in section 80(2) that it states “The Waste Authority must”. Recognising that it follows section 80(2)(a) and (b), proposed item 2A of the schedule reads —

To seek the advice of such other entities as the Waste Authority thinks fit.

That relates to the setting of the levy. Item 14A of schedule 2 states —

From time to time to develop and publish a statement of the objectives ...

The member maintains that the Waste Authority “must” but in sections 80(2)(a) and (b) there is some flexibility in the words “thinks fit as to” and “from time to time”. In effect, leaving out “must” does not weaken sections 80(2)(a) and (b) because they refer to the discretion “thinks fit” and “from time to time”.

Mr J.C. KOBELKE: I thank the minister for his answer, but my concern is compounded. I take the minister back to the start of section 80, which has just been amended. I ask the minister to compare section 80 in the act with the amended section 80. Section 80 of the Waste Avoidance and Resource Recovery Act is the application of moneys in the WARR account and states —

(1) Moneys held in the WARR Account may be applied by the Waste Authority, in a manner that is consistent with the current business plan or is approved by the Minister —

I emphasise that because it has been changed by the government’s amending bill. Clearly the business plan is an important part of the direction that the Waste Authority must take. It cannot spend moneys on what is outside of the business plan or what is approved by the minister. The amending clause relates to the other question I asked about the schedule. Section 80(1), as amended, states —

Moneys held in the WARR Account are to be applied, in a manner that is consistent with the current business plan or as may be approved by the Minister —

The amended section no longer refers to the Waste Authority. The term “Waste Authority” has been left out. I assume that it is implied, but I would like an answer as to why it has been left out. As the minister indicated, the word “must” will be deleted from section 80(2). Both of these matters relate to section 80. Given that the

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minister has deleted the reference to the Waste Authority in the lead-in at section 80(1), I wonder whether he is watering down the powers of the Waste Authority. Why has the minister removed the reference to the Waste Authority in the new lead-in to section 80?

Dr G.G. JACOBS: I will not concede that it is watering down the Act. However, it is important to recognise that clause 12 transfers the responsibility for the setting of any levies from the Waste Authority to the minister, as in section 80(2)(a) of the Waste Avoidance and Resource Recovery Act. We will get to that clause. The member referred to watering down the legislation. As I said before, proposed item 2A refers to “thinks fit for the purpose” and item 14A states —

From time for time to develop and publish a statement of objectives to be achieved by programmes funded under section 80(1)(a).

Clause 12 transfers the responsibility of the setting of the levy from the Waste Authority to the minister. I am sure that we will have a debate about that as well.

Mr J.C. KOBELKE: I do not think that the minister has answered my question but I will push on because I do not want to delay the house. The minister is stifling debate on these important points. If he cannot answer them to my satisfaction, he might be doing it to the satisfaction of others at least.

Clause 10(3) will delete item 14 of schedule 2. Item 14 in schedule 2 states —

To ensure that the appropriate investigations, audits and inspections in relation to the application of moneys from the WARR Fund are carried out.

Schedule 2 refers to the general functions of the Waste Authority. This is obviously an accountability issue that requires the Waste Authority to ensure that appropriate investigations, audits and inspections are carried out. The point of item 14 of schedule 2 is it relates to the WARR fund. The minister is proposing to delete the words “from the WARR Fund” and insert instead “under section 80(1)(a)”. I put it to the minister that this will reduce the level of accountability required by the Waste Authority with respect to the WARR fund. As it currently stands, item 14 of schedule 2 applies to the WARR fund generally. Section 80 has now been amended. The appropriate investigations, audits and inspections in relation to the application of moneys from the WARR fund relate to section 80 amended, which states —

(a) to fund programmes management, reduction, reuse, recycling, monitoring or measurement of waste;

That provision will remain because that is amended section 80(1)(a), but what about amended sections 80(1)(b), (c), (d) and (e)? They are not captured. Currently paragraph (b) is captured by the requirements for appropriate investigations, audits and inspections under item 14 of schedule 2. Amended section 80(1)(b) states —

to fund the preparation, review and amendment of the waste strategy, waste plans under Part 4 and extend producer responsibility schemes and the implementation of that strategy and those plans and schemes ...

That will no longer be the responsibility of the Waste Authority. Unless it is caught somewhere else in the legislation, the minister is saying that that does not require the appropriate investigations, audits and inspections to be carried out. Section 80(1)(c), as amended, refers to moneys held in the WARR account —

in payment of the costs of administering the WARR Account (including the costs of collecting levies and penalties and support and evaluation services);

The member for Cockburn talked earlier about how that might be done. The minister is removing from schedule 2 any requirement for appropriate investigations, audits and inspections of that money. The clause before the house will remove the requirement as a function of the Waste Authority to do that.

Section 80(1)(d), as amended, states —

to fund the services and facilities referred to in section 36(1)(da).

That relates to the new provision to pay the department for the services that are rendered under section 16 of the act. Section 36(1)(da) refers to section 16, which states that the minister will provide those services and staff to the Waste Authority. The services and staff will be paid for but the Waste Authority is not required to make sure that it is getting value for money. The minister, through the department, could provide \$200 000 worth of services but charge \$500 000 and make a profit out of it and there would be no requirement for the Waste Authority to make sure that an appropriate investigation, audit or inspection was conducted because that

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provision will be deleted. Is this another con to rip out money from the fund for other uses rather than making sure that the money is spent where it was intended to be spent? It was intended to go to the Waste Authority and to be used for the key principles of the WARR account, which are to reduce the amount of waste and for recycling and the like. Section 80(1)(e), as amended, which relates to other costs, is no longer met by item 14 in schedule 2 as a result of the government's amendment.

I hope the minister will be able to allay my concerns, but it seems to me that in this proposed amendment to the act the minister will be changing the functions of the Waste Authority to reduce its requirement to undertake appropriate investigations, audits and inspections to ensure that the WARR fund is applied in an appropriate and proper way; that is, to ensure that appropriate accountability mechanisms are put in place for this fund.

Mr F.M. LOGAN: Proposed item 2A states —

To seek the advice of such other entities as the Waste Authority thinks fit for the purpose of providing advice to the Minister in relation to the setting and variation of a levy.

This proposed amendment is obviously about giving the minister the power to change the levy from, say, \$28 a tonne to whatever amount the minister may determine, and to seek advice from other such entities in the setting of the levy. The question I want to ask is critically important. It involves a company in my electorate, Sims Metal. Sims Metal is the largest metal recycling company in Australia, and one of the largest metal recycling companies in the world. The change to this levy will have a significant impact on the cost structure of Sims Metal. Sims Metal currently puts 30 000 tonnes of waste into landfill per annum. Sims Metal, as a recycling company, tries to recycle every component of every item that is brought to its door. That is because it is in its financial interests to do that. That is obviously how it makes money. However, some of the components of the products that are recycled by that company cannot be on-sold to anyone else for further recycling, and that product goes to landfill. The increase in the levy to \$28 a tonne for sending that 30 000 tonnes of waste to landfill will cost that company an extra \$500 000 per annum. The company has told me that if the levy is increased, a lot of the waste metal from the cars that are coming to Sims Metal and that are being stripped apart and crushed —

Mr R.F. Johnson: Did you say crushed? Can you say that again? You are getting me excited!

Mr F.M. LOGAN: Yes—that gets the Minister for Police very excited! The company has told me that because of the extra cost that is involved in processing that scrap metal, other companies have already started to offer services whereby the cars are crushed into small cubes and those cubes are put into containers —

Dr G.G. Jacobs: Where are they doing that?

Mr F.M. LOGAN: Here in Western Australia.

Dr G.G. Jacobs: Whereabouts?

Mr F.M. LOGAN: I am not sure. That is just the advice I have been given.

Dr G.G. Jacobs: Can you find out for me?

Mr F.M. LOGAN: Yes. It is not in my electorate. It is overseas. The point I am making, minister, is that rather than stripping out and recycling all the components of the car—which is the whole point of the Waste Avoidance and Resource Recovery Act—the company's competitors are crushing the cars into cubes, the cubes are put into containers, and the containers are then shipped to China, where the cubes are stripped down again. No-one knows what happens in China to the toxic waste and the various other non-recyclable components of those cubes. Recycling companies in China do not have the same conditions placed upon them, as the minister well knows, as are placed upon recycling companies in Western Australia and Australia. That will be the result of the increase in this levy. I want to know whether the minister will have the power to vary the levy for the purposes of companies such as Sims Metal. Sims Metal already undertakes a significant amount of recycling as part of its operations. That company should be given credit for its recycling process, because the only parts that are left over after it has undertaken that process are the parts that go to landfill. Companies such as Sims Metal should not be penalised by this increase in the levy. In fact, companies such as Sims Metal should be given credit against that levy for the significant amount of recycling that they do as part of their normal operations.

Dr G.G. JACOBS: I will first address the comments of the member for Cockburn, and I will then address the comments of the member for Balcatta. I understand the issue as the member has described it for Sims Metal. However, I am not sure that it is relevant to this clause. The member is asking me whether there is any intention to vary the levy for companies such as Sims Metal. The short answer to that is no. I have to say to the member that we do not intend to provide an exemption for Sims Metal or any other company. We are trying to create a

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commercial environment that will encourage recycling. It might well be the case that although Sims Metal is doing well in recycling, it could do better.

Mr F.M. Logan: But this increase in the levy might have the opposite effect. That is what I am putting to you. It might have the opposite effect and cause this waste to be dumped overseas.

Dr G.G. JACOBS: Perhaps Sims Metal has not been as diligent as it should be. There have been issues with car batteries and whatever in motor vehicles. Honestly, this bill is about creating incentives in the recycling industry. We talked earlier in the debate about what this bill is trying to do. It is not reasonable —

Mr F.M. Logan: Minister, this is the world's leading recycling company. If you are saying that this company should be doing better, then perhaps you should be running this company. You are not an expert in this area. I am putting the point to you that there is some stuff that this company just cannot recycle.

Dr G.G. JACOBS: What does Sims Metal do in New South Wales, where the levy is \$58.80 a tonne?

Mr F.M. Logan: New South Wales is one of the very places that is sending cars to be recycled offshore, where the environmental standards are a damn sight lower than they are in Australia. That is exactly what is happening.

Dr G.G. JACOBS: That is the very reason that we need to put this structure in place in Western Australia. As the member for Balcatta has said, Western Australia is doing very badly in recycling. Western Australia is one of the highest users of infill in Australia. We cannot have one rule for one company and another rule for another company. We need to put in place a structure that will encourage diligence in recycling.

Mr F.M. Logan: I put it to you that those companies —

The SPEAKER: Order, Member for Cockburn!

Dr G.G. JACOBS: We are talking about the issue of the WARR fund. Subclause (3) proposes to delete from item 14 the words “from the WARR fund” and insert the words “under section 80(1)(a)”. The member for Cockburn wants to go back and talk about why the levy will be unfair for some companies. It is important that we put in place a structure in Western Australia that will allow us to do better and be more diligent when it comes to recycling.

I turn now to the comments of the member for Balcatta. I am advised that the intention of this amendment is that the Waste Authority will be responsible for the investigations, audits and inspections only for a review of the programs funded under section 81A of the act. Therefore, the Waste Authority is accountable for its own programs. The member for Balcatta raised the issue of accountability and said that there was a danger that funds might be moved from one place to another in a way that was not accountable. I have already gone through the Auditor General's functions.

Mr J.C. KOBELKE: I would like to give the minister time to continue his answer.

Dr G.G. JACOBS: The member for Balcatta was concerned about the management of accounts. We talked about the issue of hypothecation for many hours. Members were concerned that this would not be done in a properly financially managed way. Both the Department of Environment and Conservation and the waste avoidance and resource recovery account are currently audited under the Waste Authority. Members opposite have suggested that some fudging will take place and that DEC will not hand over money to the WARR account. I suggest to members that the Auditor General will audit the Waste Authority in the same way that he audits the Department of Environment and Conservation.

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Question put and a division taken with the following result —

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Ayes (25)

Mr P. Abetz
Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr I.M. Britza
Mr T.R. Buswell
Mr V.A. Catania

Dr E. Constable
Mr M.J. Cowper
Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Mrs L.M. Harvey
Mr A.P. Jacob

Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr W.R. Marmion
Mr P.T. Miles
Ms A.R. Mitchell
Dr M.D. Nahan

Mr C.C. Porter
Mr D.T. Redman
Mr T.K. Waldron
Mr A.J. Simpson (*Teller*)

Noes (24)

Ms L.L. Baker
Mr J.J.M. Bowler
Mr A.J. Carpenter
Mr R.H. Cook
Ms J.M. Freeman
Mr J.N. Hyde

Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan
Ms A.J.G. MacTiernan
Mr M. McGowan
Mrs C.A. Martin

Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Mr T.G. Stephens

Mr C.J. Tallentire
Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Dr J.M. Woollard
Mr D.A. Templeman (*Teller*)

Pairs

Mr G.M. Castrilli
Dr K.D. Hames
Mr J.E. McGrath
Mr M.W. Sutherland

Mrs M.H. Roberts
Mr B.S. Wyatt
Ms R. Saffioti
Mr E.S. Ripper

Question thus passed.

Consideration in Detail Resumed

Clause put and passed.

Leave granted for clauses 11 and 12 to be considered together.

Clauses 11 and 12 —

Mr J.C. KOBELKE: Clauses 11 and 12 form a fairly major amendment to the Waste Avoidance and Resource Recovery Levy Act 2007. Again, these clauses provide absolute clear evidence that this bill is about an extra tax. These clauses have nothing to do with increasing the rate of recycling or reducing the amount of waste that is created. These clauses have nothing to do with the clear objectives of the act, which they amend. This is a creaming off of money as a tax.

Clause 12 removes the Waste Authority’s power to recommend to the Governor an amendment to the regulations under the Waste Authority Avoidance and Resource Recovery Act prescribing the levy that is to be payable for the waste received at the disposal site and simply gives that power to the minister. Clause 12 amends section 4 of the Waste Avoidance and Resource Recovery Levy Act 2007. Subsection (1) of that act states —

The Governor may, on the recommendation of the Waste Authority, make regulations under the *Waste Avoidance and Resource Recovery Act 2007* prescribing an amount by way of levy that is to be payable in respect of waste received at disposal premises.

This clause removes the words “Waste Authority” and substitutes the word “minister”; therefore, the Governor will take that action on the recommendation of the minister. Currently, the Waste Authority makes a recommendation to the minister and the minister, through cabinet, takes it to the Governor, who, in Executive Council signs off on the regulations that set the actual levy for waste received at disposal premises. Under the existing act the Waste Authority has to make that recommendation, but clause 12 of this bill provides for the minister to have the Governor sign off on the regulations.

The difficulty for the government is that even though it might make its own appointments to the Waste Authority, those people might be seen to do the bidding of the government. However, those people who might be amenable to complying with the government’s requests might be people of principle. They will have a problem because they will be required to work under the objectives of section 5 of the act, which have nothing to do with general taxation for government agencies. Clearly, one of the objectives of the act relates to the efficient resource recovery, waste avoidance and the rest —

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The SPEAKER: If members in this place want to have conversations, I suggest that they conduct them very quietly or take them outside this place. I would like to hear clearly what the member is saying. I am sure that Hansard would and that the minister would appreciate it as well.

Mr J.C. KOBELKE: My point is that irrespective of whatever toadies the government might put on the board—I am not suggesting they are there now—those people might feel that they have an obligation to fulfil their statutory requirements under the Waste Avoidance and Resource Recovery Levy Act 2007. If that were the case, they would not be able to recommend to the government a level for a levy that is simply about general taxation. The reason is that the head of powers under the objects of the act have not been amended. If the government was half honest, it would have made the necessary changes to the objects of the act to include that it is about not only waste avoidance and resource recovery, but also the raising of general revenue to go into consolidated revenue. But that is not stipulated in the act, and therefore the Waste Authority will find it very difficult to recommend on a general taxation issue through this levy. With this amendment, the minister removes the Waste Authority's requirement to make an annual recommendation on the levy and simply gives the power to set the levy to the minister. Then, by way of the further amendments to section 4, the minister, having removed the Waste Authority's power to make a recommendation, suggests, in a very lame way, that it can provide advice to the minister for the purpose of making a recommendation relating to the way the levy is prescribed. The amendment states —

- (2B) The Minister must give due weight to, but is not bound to accept, the advice of the Waste Authority under subsection (2A).

This amendment is all about increased taxation powers, and has nothing to do with the purpose of the Waste Avoidance and Resource Recovery Act, the title of which makes very clear what it is about. The opposition will oppose this clause because it is a clear attempt to impose an extra tax on people and is an abuse of the act.

Mr P. PAPALIA: I share the member for Balcatta's concerns about this clause. It is clearly the smoking gun that puts the lie to any possible suggestion that the government is doing anything other than making a blatant tax grab.

This clause confirms that the minister wants the Waste Authority removed from the process that determines the amount of the waste levy. It allows the minister to dictate any further increases, and this is the clause that this whole process has been about. The whole reason we are debating this bill is that, following the Minister for Environment's premature announcement that she was going to increase the waste levy by 300 per cent to use it as she saw fit, she sought legal advice and was told that she could not go down that path without altering the act. This is what this whole process has been about. She then sent the Minister for Water into this place to do the dirty work of introducing the amendments to the act so that she could remove the Waste Authority from the decision-making process.

As the member for Balcatta correctly identified, a token provision has been inserted into the Waste Avoidance and Resource Recovery Amendment Bill 2009 that reads—

- (2B) The Minister must give due weight to, but is not bound to accept, the advice of the Waste Authority under subsection (2A).

This whole process has just been about saving face for the minister and about enabling the government to cover its tracks and to fill the hole in the Department of Environment and Conservation's budget. It is about using this levy for a purpose for which it was never designed. The vast majority of people in Western Australia, were they aware of what was actually happening, would be offended by this. This whole process has just been about enabling the collection of a covert tax from the people of Western Australia. At the moment it will affect and distress local governments only in the metropolitan area, but rest assured that it will be expanded in due course. The member for Kalgoorlie is no doubt concerned about that because he has been voting with the Labor Party on divisions. He is aware that it will spread and go beyond the borders of the metropolitan area.

In the long run, this is just another opportunity for the government to cover its gross budgeting inadequacies by raising taxes by means other than obvious taxes. Instead it is imposing licences or levy increases and household costs increases in the hope that Western Australians will not notice that they have been slugged left, right and centre to cover up the hopeless performance of the Treasurer of Western Australia and this government. This government sees no means of covering the resultant demands of its inadequacies in this case, other than by raising a tax and then using the money, stealthily under the guise of the Waste Avoidance and Resource Recovery Amendment Bill 2009, as a recovery levy designed to promote recycling and reduce waste and protect

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the environment. It is utilising that as a means of grasping more money from the taxpayers of Western Australia for no other purpose than to fill the gap in the budget created through its own poor management.

This is the crux of the entire matter, and as the minister stands I would like him to hold his hands up so that I can see whether they are really shaking, as they should be if he had any sort of shame or conscience about his behaviour in this place and about coming in and telling us that this is legitimate behaviour on the government's behalf. It is just mind-boggling. It beggars belief, and I would be concerned and distressed if the minister's hands were not shaking.

Dr G.G. JACOBS: I thank the members for Balcatta and Warnbro for their remarks. I suppose the only thing that is making me shake is that we have been at this for a very long time. However, as the explanatory memorandum on clause 12 outlines, essentially it makes the minister responsible under the act for setting the levy and able to take the advice of the Waste Authority. I believe that it is appropriate for the minister to be responsible for setting the levy, and I say that quite unashamedly.

The next suggestion made was that somehow the minister may set the levy so that she can fill a financial black hole in the budget of the Department of Environment and Conservation. I reject that suggestion. I draw the member for Warnbro's attention to clause 12, which states —

- (1) In section 4(1) delete "Waste Authority," and insert:
Minister,
- (2) After section 4(1) insert:
 - (2A) The Waste Authority may provide advice to the Minister for the purpose of making a recommendation under subsection (1) as to the amount by way of levy to be prescribed.

I strongly reject the suggestion that the minister, having given due weight to the advice received from the Waste Authority, but not being bound by it, would set the levy at twice the recommendation so that she can fill a hole in DEC's budget. The levy will be imposed on waste received at disposal premises. The consideration for that levy will not be to try to backfill DEC's budget; it will be set as a disincentive to creating landfill. This is not about the power of the minister to fill a hole in DEC's budget; it is truly a consideration of the levy that should be imposed after giving due weight to the advice received from the Waste Authority, although she is not bound by it. There is no hidden agenda. It is about the setting of a levy for the true reason that we have a levy.

Mr M.P. Murray: Are you saying that there is no hidden agenda in that paragraph, but there could be in some other paragraphs that we have not looked at and were not allowed to talk about?

Dr G.G. Jacobs: You can get up and contribute, if you like.

The ACTING SPEAKER (Mrs L.M. Harvey): The member for Nollamara has the call.

Ms J.M. FREEMAN: I seek some clarification on the purpose of these clauses. The minister has directed us to look at the explanatory memoranda. It is unclear to me whether the amount of the levy is just one amount, whether this clause gives the minister the power to appropriate different amounts for different local government authorities, and whether, based on that, the minister can make decisions that are favourable to certain areas over other areas.

Dr G.G. Jacobs: Can you explain what you mean?

Ms J.M. FREEMAN: Is it one amount? For example, there is a levy of sorts to fund WorkCover. There is a premium set in the levy for two areas, and the amount differs depending upon occupational area. I am interested to know whether this amount—it is not clear from this insertion—is a set amount, or whether it can be a certain amount for the City of Stirling versus a certain amount for the City of Gosnells, for example. I seek some clarification on that. Proposed section 4(2B) states —

The Minister must give due weight to, but is not bound to accept, the advice of the Waste Authority under subsection (2A).

How will the minister report what other weight will be given to the decision to increase or not increase the levy? How can it be scrutinised? Will it be scrutinised by the Auditor General? How will the levy that is accepted or not accepted by the minister be reported to Parliament? I have a perfect example from my history. I am quite new to this place but I recall that some time ago a minister was advised to increase the minimum wage for workers, and the minister chose to not accept the advice. On that basis, a number of workers were disadvantaged.

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In spite of the fact that this had happened in every other state and that there were good arguments in favour of increasing the minimum wage, there was no discussion and the minister gave no reason for his decision. My concern is that this could be a similar situation. The minister can make a decision to increase the levy, even though the Waste Authority may advise her that there is no need to increase the levy because it is already adequately resourced. I understand that at this time, money has been collected that has not been fully spent, and that that is one of the reasons for this change. The minister could say to the Waste Authority, “You may say that we don’t need an increase in the levy; I believe we do, but only in the areas that have a particular application to some waste facilities or other particular areas”. If the minister could answer my questions, I would be appreciative.

Dr G.G. JACOBS: I thank the member for Nollamara for her question. I am advised that the regulations require different amounts for prescribed premises, whether for inert waste or putrescible waste. As the member may have gathered during this debate, there is one rate for inert landfill of \$3 to \$12 a cubic metre, and another rate for putrescible household waste of \$7 to \$28 a cubic metre. That is how things stand now. It will not be a different rate for different local governments.

Ms J.M. Freeman: It can’t be changed? It can’t be then said that you can go to a certain local council and change the regulations?

Dr G.G. JACOBS: The regulations can be changed, and these regulations require these rates at the moment. It is not different for different local governments.

Mr C.J. TALLENTIRE: I am concerned about the amendments proposed in clause 12. It is proposed in proposed section 4(1) of the Waste Avoidance and Resource Recovery Levy Act to replace the name of the Waste Authority with the name of the minister. My fear is that it could lead to a form of duplication. The Waste Authority will still provide advice to the minister, but the minister will then need advisers to assess the information. It seems, by making this change, that the government has created the need for an extra unit, at least, of bureaucracy within the Department of Environment and Conservation, to assess the advice from the Waste Authority to see whether it will be acceptable to the minister. That is a far less streamlined approach than the one we presently have, in which the Waste Authority is seen for what it is—the expert body in the area, and therefore the body that can set the levies.

Dr G.G. Jacobs: The Waste Authority is still there.

Mr C.J. TALLENTIRE: It is still there, but the minister is now saying that it will be up to the Minister for Environment to make the final call on the changes to the levy.

Dr G.G. Jacobs: Proposed section 4(1)(2A) states, in part —

The Waste Authority may provide advice to the minister for the purpose of making a recommendation under subsection (1) as to the amount by way of levy to be prescribed.

Where is the extra layer of bureaucracy, or whatever you’re saying?

Mr C.J. TALLENTIRE: The extra unit that would be required and the extra staffing. This effectively creates the need for the Department of Environment and Conservation to create a unit that considers the advice from the Waste Authority before the advice is accepted by the minister. To back this up, the minister should be looking at the advice of the sixteenth report of the Standing Committee on Environment and Public Affairs. As extensive as that report is into all the difficulties surrounding waste in Western Australia, and the detail it went into on the work of the Waste Authority, at no stage did it recommend any decrease in the importance of the Waste Authority, or to make the Waste Authority subservient to the minister on the issue of providing advice and setting the waste levy. The minister needs to provide information on where this idea suddenly came from, given that the standing committee has already provided that degree of scrutiny. Where has this idea come from, and how could it be better than the present system?

Dr G.G. JACOBS: The Minister for Environment takes advice from all sorts of people and organisations. I do not really get what the member for Gosnells is proposing—that this will create another unit. The Waste Authority currently advises the minister, as do other agencies and organisations. This is prescribed under proposed section 4(1)(2A).

Mr C.J. Tallentire: I refer to minister to section 4(1) of the Waste Avoidance and Resource Recovery Levy Act. The present reading is that the Governor may, on the recommendation of the Waste Authority, make regulations. You want to replace that to say that the Governor may make regulations on the advice of the minister. That is a fairly substantial change.

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Dr G.G. JACOBS: It makes the minister the person accountable for setting the levy.

Mr J.C. KOBELKE: The minister's last comments go back to the contribution I was making to the debate on the amendment to section 4 of the Waste Avoidance and Resource Recovery Levy Act. The minister ultimately said that it makes the minister responsible for the levy. The minister is trying to avoid acknowledging that the minister must be made accountable as the government is using the Waste Avoidance and Resource Recovery Act for general revenue raising for the Department of Environment and Conservation, which is outside the objects of the act. That is why the minister was correct in his last statement that the minister must be made responsible. If we leave the responsibility to recommend with members of the Waste Authority, by their conscience and by the requirements of the statute they will have to recommend levies that meet the objectives of the act, not the government's aim, for raising general revenue.

Dr G.G. Jacobs: You did outline that the definition in section 5 of the Waste Avoidance and Resource Act is about the levy. It is not about the levy in consideration of any funding of DEC or any black hole there might be in the minister's budget. It is about setting the levy for the true purposes for which the levy is raised. Those purposes are about a disincentive to landfill and encouraging recycling.

Mr J.C. KOBELKE: The minister is twisting himself in knots.

Dr G.G. Jacobs: Why do you suggest that somehow an increase in the levy and the minister's ability to increase the levy as he or she wishes is to fill a hole in DEC's budget?

Mr J.C. KOBELKE: That is quite clearly what the minister is doing. The minister has made it clear that this is about general revenue raising for the Department of Environment and Conservation. It is totally outside the objects set out in section 5 of the Waste Avoidance and Resource Recovery Act. The point I am making to the minister is that if he listened to the logic of my point, he would see that I am right, although he might not agree with me or acknowledge it. The reason for the amendment in clause 12 to section 4 of the Waste Avoidance and Resource Recovery Levy Act, confirmed by the minister's last comment before he sat down about why the minister must be responsible, is that the minister cannot rely on the members of the Waste Authority board to make recommendations that the government wants for general taxation, as it would not be in keeping with the act to which they as members of the board are duty bound to adhere. That is the problem the minister has. I know that the minister did not draft the clause and he is not the responsible minister. However, if the minister was half honest, he would go back and change the required sections of the Waste Avoidance and Resource Recovery Act relating to its objectives and its long title, but he has not. That is why this clause is quite dishonest. The minister is asking people to use the Waste Avoidance and Resource Recovery Act to do things that are clearly outside the objects of the act. We can read those objects in section 5 of the act over and over again; they do not allow the minister to take 75 per cent or more of this money and put it into the general revenue of a department and use it for any purpose the minister wants to in that department. Clearly, that is outside the objects of the act. That is why this amendment requires the minister to be responsible. The majority of people serving on boards and committees—even if they are Liberal Party or National Party members—are people of decency and integrity. They know that if they are appointed under an act that they must comply with the requirements of the act, and the requirements of the Waste Avoidance and Resource Recovery Act do not allow them to raise general revenue. That is why the minister needs this amendment that is before the house now, because it is to fix up the problem created by the minister using this act as a means of raising general revenue. As the minister has already pointed out in an earlier debate, it is regarded as a 25-75 per cent split, which again shows the lie to the clause that states that at least 25 per cent will go to the WARR account. Clearly, the government has no intention of making it more than 25 per cent. It will be even less than 25 per cent because of issues that we have already debated, but which I will not go into now because they are not before the house. However, before the house is the clause that removes from the Waste Authority the instigating power for setting a levy, in particular levy increases, and gives the power solely to the minister. The minister then can ride roughshod over the objects of the act, because the minister will be instructed by Treasury and cabinet to simply raise money, and will have the objective of raising money for general revenue for his or her department.

Dr G.G. JACOBS: All I can say to the member for Balcatta is that I continue to believe that it is more appropriate for the minister than it is for a statutory authority to raise a levy.

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Question put.

Point of Order

Mr D.T. REDMAN: The division was called by the member for Rockingham while he was standing and not in his chair. I do not believe it is appropriate for him to make that call.

Mrs C.A. Martin: Divide!

Mr M. McGOWAN: As I understand it, there was more than one member who called “divide”. I think the member for Balcatta did in any event. Perhaps the member over there should listen more carefully.

Mr R.F. Johnson: He heard you put it and you were not in your place. So you got it wrong, sunshine!

The ACTING SPEAKER (Mrs L.M. Harvey): To the point of order, the division has been called. Member for Rockingham, you do need to be in your seat in order to call a division.

Division taken with the following result —

Ayes (25)

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

Noes (23)

Ms L.L. Baker	Mr W.J. Johnston	Mr M.P. Murray	Mr A.J. Waddell
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.P. O’Gorman	Mr P.B. Watson
Mr A.J. Carpenter	Mr F.M. Logan	Mr P. Papalia	Mr M.P. Whitely
Mr R.H. Cook	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Dr J.M. Woollard
Ms J.M. Freeman	Mr M. McGowan	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)
Mr J.N. Hyde	Mr C.A. Martin	Mr C.J. Tallentire	

Pairs

Dr K.D. Hames	Mr B.S. Wyatt
Mr G.M. Castrilli	Mrs M.H. Roberts
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

Question thus passed.

Consideration in Detail Resumed

Clauses put and a division taken with the following result —

Ayes (25)

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

Extract from Hansard
[ASSEMBLY - Tuesday, 22 September 2009]
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Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Noes (23)

Ms L.L. Baker	Mr W.J. Johnston	Mr M.P. Murray	Mr A.J. Waddell
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.P. O’Gorman	Mr P.B. Watson
Mr A.J. Carpenter	Mr F.M. Logan	Mr P. Papalia	Mr M.P. Whitely
Mr R.H. Cook	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Dr J.M. Woollard
Ms J.M. Freeman	Mr M. McGowan	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)
Mr J.N. Hyde	Mrs C.A. Martin	Mr C.J. Tallentire	

Pairs

Dr K.D. Hames	Mr B.S. Wyatt
Mr G.M. Castrilli	Mrs M.H. Roberts
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

Clauses thus passed.

Title put and passed.

Third Reading

DR G.G. JACOBS (Eyre — Minister for Water) [8.33 pm]: I move —

That the bill be now read a third time.

MR M. MCGOWAN (Rockingham) [8.33 pm]: I am pleased to speak in the third reading stage of the Waste Avoidance and Resource Recovery Amendment Bill 2009. There is no doubt that this has been a long debate. The opposition has raised many points about this legislation as the debate has gone along. I make it perfectly clear once again that we are opposed to this legislation, so we have taken every opportunity during this debate to point out the reasons that we oppose it. This legislation is a backward step for waste management in Western Australia, and it is a backward step for families, with the additional costs imposed on them. It is a backward step for the environment, and for the Department of Environment and Conservation, which will suffer as a consequence of the government’s decision to cut funding from the agency.

The course of this debate has indicated many things, and we have discovered many things along the way, not just about the legislation but also about the management of the Parliament. We made a discovery along the way in a financial sense when the minister responsible for the bill in this house, the Minister for Water, was forced by your very good ruling, Mr Speaker, to table some correspondence from the Treasurer to the Minister for Environment. That correspondence indicated that the Minister for Environment knew prior to the state budget that this waste levy legislation would cause a problem for the budget of the Department of Environment and Conservation. We learnt as the debate went along that she communicated that information to the Treasurer before the budget was handed down. We then learnt that it took six weeks for the Treasurer to get back to the Minister for Environment with a three-paragraph piece of correspondence in which he indicated that any budgetary problems faced by the Department of Environment and Conservation—of which there will be many as a consequence of the budget cuts and the failure of the government to progress this legislation, and the fact that it will be passed six months late—would be dealt with. There will be many problems for the Department of Environment and Conservation as a consequence of this legislation. We learnt of the Treasurer’s response because of the letter that the Minister for Water was forced to table as a result of the request by the member for Mandurah, who in a very incisive moment pointed out that the minister was quoting from an official document. It is a pity that other ministers do not follow the lead of the Minister for Water in tabling documents. It was like drawing teeth. It took roughly an hour to get the document from the minister, but he eventually relented and provided the document.

I also have here a copy of the letter sent by the Minister for Environment to the Treasurer, in which she pleaded the case that the legislation would not be passed, and that there would be a deficit in the department’s budget. She knew that there would be a significant cut to the budget of her agency. She also said a few enlightening things in this correspondence, which I do not think has been brought to light before. It is dated 11 May 2009, and I will quote from it —

... legislative amendment is required to give effect to the intent of the Budget decisions. Therefore, DEC predicts that the 300% levy increase may not yield the full \$39 million per annum revenue increase. The Department of Treasury and Finance has accepted this view.

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

The Minister for Environment acknowledges in her correspondence to the Treasurer that there is a significant problem.

Dr G.G. Jacobs: Where did you get that letter from?

Mr M. McGOWAN: Knowing the Minister for Water, he probably tabled it. He probably quoted from it, and therefore it was sitting on my desk. I can only assume it came from the minister, because it was just sitting on my desk when I came in.

Mr T.R. Buswell: It was tabled in the other place.

Mr M. McGOWAN: I thought that, in a moment of guilt, the minister had handed it over to me because he had accepted responsibility for what he had done. I assumed it was from the minister, but if it was tabled in the upper house, as the Treasurer said, then it was tabled in the upper house. I appreciate the advice of the Treasurer in that regard. The Minister for Environment then says —

Point of Order

Mr R.F. JOHNSON: The third reading does not allow a member to bring in new material. The third reading is to deal with what has been discussed and debated during the consideration in detail stage. The member is running a second reading debate.

Mr P. Papalia: You're just trying to bring everyone down to your level, aren't you?

Mr R.F. JOHNSON: I can never get down to the level of the member for Warnbro. I can never get that low.

Standing orders say that members are not allowed to bring in new material during a third reading debate.

The ACTING SPEAKER (Mrs L.M. Harvey): The third reading speech is debate on the bill as it has been passed, and new material cannot be brought into the debate.

Debate Resumed

Mr M. McGOWAN: Thank you, Madam Acting Speaker. During the debate we referred at length to the provisions in this legislation, and indeed the Minister for Water moved an amendment to try to repair it, reflecting the fact that it was six months late in coming in. The minister moved an amendment to repair the fact that the Waste Authority would potentially suffer a deficit as a consequence. He did not move an amendment to reflect the fact that the department would be the loser out of these arrangements. Introducing legislation six months late has meant that the department is the loser. There were provisions to, in effect, make sure that the Waste Authority was not the loser, but there is nothing in the legislation to prevent the department from being the loser out of this. I was merely referring to the fact that that was debated in this house. The department will be the loser and the government knew that the department would be the loser out of this legislation.

I will continue to refer to the significant hole in the agency's budget, as was revealed in the debate. We learned during the second reading debate and the committee stage of the bill that the government has not committed to fix the hole in the agency's budget. Of all the government agencies, the environment agency has been the most woefully treated.

Mr T.R. Buswell: I don't think so.

Mr M. McGOWAN: Which agencies have been treated worse?

Mr T.R. Buswell: I will let you find out.

Mr M. McGOWAN: The Treasurer has said some agencies have been treated worse than the Department of Environment and Conservation. It has received a significant cut to its budget, which now has a major hole in it. Which department is worse off than the Department of Environment and Conservation?

Mr T.R. Buswell: The budget papers were brought down in May, so I will let you work that out.

Mr M. McGOWAN: The Treasurer is being very cryptic. If there is an agency that is worse off than the Department of Environment and Conservation, I am unaware of it. We will look at that and determine which agencies have been treated worse than this agency by the Treasurer.

The debate was quite enlightening because we discovered a number of clauses, as the debate went along, that seemed to lack any particular purpose. The minister was unable to explain to us what some of those clauses are about. It was very enlightening also because we debated other amendments moved by the Greens (WA) and the Independent member for Alfred Cove. Those amendments were supported by the opposition. The house was deadlocked on those votes, but for the vote of the Speaker. Those amendments were predominantly about the

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issue of container deposit legislation. The Greens member and the Independent member for Alfred Cove were attempting to elevate the issue of container deposit legislation into the Waste Avoidance and Resource Recovery Act rather than making it a regulatory matter under the act. That was a fair thing to do because the legislation did not mandate that those proposals be put into effect.

I have seen some deposit schemes operating overseas. When I went to Trondheim to look at the geosequestration of carbon dioxide off the coast of Norway, I looked also at some of the container deposit schemes in Scandinavia and how they operated compared with how the South Australian container deposit scheme operates. That was a good opportunity to examine the schemes while I was there. They are very different operations. The Scandinavian schemes are very hi-tech and are operated by expert corporations. They are streets ahead of the South Australian model. All we wanted to do was elevate those issues in this bill so that we could make sure that the government would consider that matter more seriously than it has. A container deposit scheme is well worth examination. It is certainly something that no government in Australia has done in the past 35 years, even though the South Australians swear by their scheme. It is well worth an examination, which is why I looked at how the scheme operates in Scandinavia. The Scandinavian system is very hi-tech. It is basically entirely automated and involves people depositing a bottle or can at a machine in a supermarket. The machine spits out a receipt, which is redeemable. It works that way in Scandinavia and in a number of other countries. The South Australian system was described as a little more clunky and not as advanced. Perhaps the model that was set up in the 1970s did not allow for that level of sophistication. In any event, the opposition suggests that that is something the government should consider. The legislation provided that opportunity but the government knocked it back—admittedly by only a very narrow margin.

We wanted to debate other issues as part of this legislation but were denied the opportunity to do so by the Leader of the House moving the gag motion on four or five occasions. That occurred on one occasion in particular when we had an amendment on the notice paper that we would have enjoyed debating. Although this has been a long debate, we have been attempting to protect Western Australian families from these fee increases. We believe that we have done our role, as an opposition, in providing that protection to Western Australian families. We believe that we have performed our role in ensuring that the waste legislation, as it was originally established, remains true to the purpose for which it was established. The member for Mandurah had carriage of that legislation in 2007. We believe that we have adhered to those two objectives and we certainly have used Parliament for that purpose.

In closing, it is interesting that the government and the Leader of the House have taken such grave offence at the opposition using the Parliament in that way to pursue an issue it opposes. During the past couple of weeks of sitting, the government has passed six bills through this house by agreement. The government accused us of filibustering on this legislation and said that it was taking too long to get through, even though government members spoke on it. That is a strange accusation. We have talked for a long time on the Waste Avoidance and Resource Recovery Amendment Bill 2009 because we had some good points to make. It has become obvious that many members of the opposition have some detailed knowledge of this area and they wanted to express it, which is worthwhile.

MR D.A. TEMPLEMAN (Mandurah) [8.48 pm]: I am very pleased to make some comments on the third reading debate of the Waste Avoidance and Resource Recovery Amendment Bill 2009, which during the estimates committee back in May when it was first mooted I described as a dead, stinking cat of a bill. Nothing during the 19 hours of debate on this legislation has made me change my mind. This is still a dead, stinking cat of a bill that was carried in this place by the Minister for Water representing the Minister for Environment in the other place. Despite the valiant efforts of the Minister for Water to dress up this legislation as a rosy number, with a few frills on the outside, it has not worked. In fact, it has failed dismally. Over the past few weeks, on a number of occasions the government had to resolve to adjourn the debate. At one stage it realised that it might not have the numbers to see this dead, stinking cat of a bill passed in this house, and so debate was adjourned. On another occasion I witnessed an interesting event when it took nearly an hour to arm-wrestle a letter from the Minister for Water when he was directed by the Speaker to table it. Initially the minister refused but then realised the seriousness of the refusal and after some arm-wrestling he tabled it.

Mr P.B. Watson: It wasn't a very good arm-wrestle!

Mr D.A. TEMPLEMAN: No! We then had, as has just been outlined by the member for Rockingham, the tabling of a letter from the Treasurer to the Minister for Environment —

Mr T.R. Buswell: No. It was the other way around.

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Mr D.A. TEMPLEMAN: That is correct. The letter was from the Minister for Environment to the Treasurer. That letter had also been tabled in the other place. That letter highlighted the fact that problems had been perceived by the Minister for Environment even before the budget was handed down by the Treasurer in May.

A number of very important amendments were put forward by members of the Labor Party, and also an Independent member, the member for Alfred Cove, and the Greens (WA) member, the member for Fremantle, to try to make this bill not only more effective, but also a little more saleable. Those amendments were defeated by the government. That was despite the fact that a number of Independent members crossed the floor to support the Labor Party on those amendments. In the past five hours of debate on the bill, we have had the use of the gag. What is most concerning is that this afternoon, the Speaker was put in what I think was a very precarious position, because he had to use his casting vote to gag the debate. However, what particularly riled me, and I did get angry, and I am still seething —

Mr C.J. Barnett interjected.

Mr D.A. TEMPLEMAN: — on the inside! I was particularly riled about the fact that because of the actions of the Speaker, the opposition was not able to debate an amendment that we had placed on the notice paper. It is abhorrent that we were not given that opportunity. I believe that we will look back on this day—22 September 2009—as a dark day in the history of the Western Australian Parliament. This is a dark day for the government. It is also a dark day, I must say, for the procedures in this place. Later this evening we will all make our way home. Some members will be tucked into their beds only 10 minutes or so after they have left this building. Of course I, being a regional member, will have to make the trek down the new extension of the Kwinana Freeway. Actually, I will not get to the new Forrest Highway, because I will turn off before then. While I am making that long and lonely trip, I will be contemplating what has occurred in this place this afternoon. Perhaps in years to come I will tell my children about the abhorrent behaviour of the government during this debate —

Mr P. Abetz interjected.

Mr D.A. TEMPLEMAN: The member for Southern River should not start! He knows what I have done to the member for Wanneroo! He is not in the chamber anymore! He is still smarting from the pasting that he received from me this afternoon! I think he is still mopping his brow and dealing with his wounds! He is probably sitting in his little office now, wondering what he did and how he is going to make recompense to his constituents in the wonderful borough of Wanneroo! As I said at the beginning of my comments, some very interesting things have occurred in this chamber this afternoon. During our contemplation of this bill, a number of important initiatives have been discussed, and, indeed, motions moved. One of those was, of course, the container deposit scheme, which has been highlighted.

I pay tribute to the representatives from the Department of Environment and Conservation, who sat at the table and had to endure, along with the Minister for Water, the 19-odd hours of debate on this bill. I appreciate the work of those public servants from the department. I did actually work with them during my time as the Minister for the Environment. They have certainly done their job very appropriately in this place, under great duress in many respects, with the interesting banter and discourse that has occurred over the past 19 hours of debate on this bill. Indeed, I do not think that in my life I have seen two people who have been more bored—well, there are a couple of people I could mention, but I will not mention them tonight! They have played their important role very well, and I salute them, particularly when they have had to advise on a bill of this nature.

Several members interjected.

Mr D.A. TEMPLEMAN: Members know what I think about it!

I also pay tribute to the minister. He has tried very hard, under the intense mauling that he has received from the opposition over the past 19 hours of debate on this bill. The minister reminds me, I must say, of the footage that we saw only recently—speaking of important environmental matters—of the wildebeest that were lying around a waterhole and that were surrounded by a pride of lions. The minister reminds me of the wildebeest at the waterhole! He is surrounded by the Labor lions, who are launching themselves at the wildebeest! The Minister for Water is flailing around, trying to wrest the Labor lions away from him, and as he wrests one away from him, another one comes along, and they are all reaching in with their claws, and it is a death by a thousand cuts for the poor wildebeest! That probably epitomises what has occurred in the past 19 hours of debate on this bill. It has been a death by a thousand cuts for the Minister for Water, who in this dissertation is playing the role of the wildebeest.

Mr B.J. Grylls: I seem to recall that he won!

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Mr D.A. TEMPLEMAN: Some might think the wildebeest won.

Mrs C.A. Martin: History will tell!

Mr D.A. TEMPLEMAN: Yes. History will show that the pride of lions prevailed. But, of course, waiting in the water was the crocodilian representation—no, that is not very good. Let us just say that the part of the crocodile could have been played by the member for Fremantle, and the member for Alfred Cove would also have been lurking in the water, so that although the Labor lions were not able to bring down the wildebeest immediately, the other carnivores were waiting in the water, ready to send him on his way! This bill will now be sent on its way to the other place. As we know, the government has the numbers in the other place. It also has the Minister for Environment in the other place. I am sure the minister will receive an appropriate mauling from the opposition in that place.

Mr T.R. Buswell: What—from Sally Talbot!

Mr D.A. TEMPLEMAN: Absolutely! The Labor leopard, Hon Sally Talbot will, I am sure, be able to inflict painful wounds to the Minister for Environment when this bill goes to the other place. There have been complaints from the Leader of the House about filibustering. I am appalled by that notion! It is important to note that not only have important amendments been debated, but also the opposition has taken up these very important matters on behalf of our constituents. This debate is ultimately about whether the government of the day should be allowed to introduce a bill that seeks to impose a tax on the people of Western Australia. This will be an additional tax. It will be in addition to the other tax increases that have been imposed by this government since it was elected in September last year. Nearly every member of the opposition spoke on this bill during its 19 hours of endurance in this house. That is very appropriate, because we all have a responsibility to argue on behalf of our communities and put strong arguments as to why we oppose this bill. I believe the opposition has done that particularly well. I congratulate the members on this side for that. I also congratulate the Independent members who saw it as fit and right to cross the floor and support the opposition on a number of amendments, as we supported a number of the amendments that were put forward by some of the Independent members and the Greens member as part of this bill.

At the end of the day there will be a 300 per cent increase in the levy. I think it was either the member for Riverton or my friend the member for Wanneroo, who is not currently in this place, who said that it is only \$26. That comment epitomises exactly what the opposition is saying; that is, \$26 is a substantial amount of money for many people in our community. For some, like members in this place, it will not be much and for the Treasurer, who is leaving the chamber, it will be very little. However, for people in the community on limited or fixed incomes or who rely on various types of support, \$26 adds to the increase to the fishing licence that has impacted on their household, as have the increases to power, water, gas, parking and other charges. If the \$26 is added to the other increases that have been imposed by this government in its short term in office, it will have a substantial impact on many people throughout Western Australia.

It is the right and the obligation of the opposition to stand and argue—we have done it very well—why this bill is a stinking cat. Those members opposite who criticised the opposition for its tactics in debating this bill have a very important lesson to learn. I can remember when the government members were on this side of the house that the problem for them was that they were very lazy. They did not do the digging or interrogation that a government of any colour should endure. It is the role of the opposition to analyse and debate—that is, if they have the time to debate and are not curtailed by gag motions. The opposition has an obligation to do that. On this occasion the opposition members, along with some Independent members and the Greens member, have done that in a very effective manner. Yes, at the end of the day, the numbers will show that that was not successful. However, I will be able to stand up in my community, as will other members on this side and some of the Independent members and the Greens member on the other side, and say that we argued strongly against this additional impost on families. That is what we have done and we will continue to do that. If that means that members opposite get frustrated about how long we are staying in this place, then, sorry, but they should get used to it.

The government needs to be on notice that this opposition will not allow it to ride roughshod over the people of Western Australia. It is the opposition's role to ensure that that does not happen and we will continue to argue strongly in this place on behalf of our communities when deceptive bills, such as this bill, are introduced into this place.

Obviously, we will vote on the third reading and the bill will go to the other place and be dealt with by the other place. However, I think that a very important lesson has been learnt, or should have been learnt, by members opposite, particularly new members, such as the member for Wanneroo, who argue and interject about things

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without thinking about what they are saying. The member for Wanneroo might be off on stress leave because he is not in this place at the moment. If he is listening to this debate, maybe we will have a discussion outside this place.

I congratulate members on this side and those Independent members and the Greens member who fought valiantly and were lion-like in their fight to bring down this wildebeest of a bill. I hope that we will have more debates of this nature in the future, particularly on issues such as the environment. It is very clear that the government sees the environment as a very low priority, but we should be debating more environmental issues in the future.

MR J.C. KOBELKE (Balcatta) [9.05 pm]: I will, in this third reading debate on the Waste Avoidance and Resource Recovery Amendment Bill 2009, reiterate some of the reasons why the opposition is opposed to it. Clearly, it is a dishonest bill because it seeks to hide an additional tax under the guise of waste avoidance and resource recovery. There are many elements to the structure of the amending bill that are trying to hide what is happening. It will come back to bite the government.

Members on this side of the house will be talking to their constituents to ensure that they understand that we put up a fight to protect them from an unnecessary increase in tax by way of what they will have to pay for waste removal. We will ensure that they take waste avoidance and resource recovery seriously, because this bill treats it as a joke. It does nothing to enhance the ability to ensure that our waste recovery and treatment of waste to try to protect the environment is advanced. This bill is a big step backwards for the environment.

I will refer to the key elements of why I believe it is an absolutely dishonest bill. The Waste Authority has the power to raise a levy, which it has been doing for some years, on waste disposal, particularly waste going to landfill. Based on the money raised from that levy, the Waste Authority has an account—the waste avoidance and resource recovery account—which it can use to help fund a range of diversion programs and more efficient forms of waste recovery and waste disposal.

The Waste Authority currently has the power to recommend to the minister what that levy should be. It does that in keeping with the objects outlined in section 5 of the Waste Avoidance and Resource Recovery Act 2007. The government has totally avoided any discussion on the objects of that act and why this is a dishonest bill. I will remind members what is contained in section 5 of the act. It states —

- (1) The primary objects of this Act are to contribute to sustainability, and the protection of human health and the environment, in Western Australia and the move towards a waste-free society by —
 - (a) promoting the most efficient use of resources, including resource recovery and waste avoidance; and
 - (b) reducing environmental harm, including pollution through waste; and
 - (c) the consideration of resource management options against the following hierarchy —
 - (i) avoidance of unnecessary resource consumption;
 - (ii) resource recovery (including reuse, reprocessing, recycling and energy recovery);
 - (iii) disposal.
- (2) The principles set out in the EP Act section 4A apply in relation to the objects of this Act.

For members who are not familiar with the provisions of the Environmental Protection Act, the principles are contained in section 4A. Members will not find a reference anywhere in those objectives or principles that this levy can be used as a means of taxation to support another department. It is totally dishonest to re-jig, through this amendment, part of the Waste Avoidance and Resource Recovery Act to drag money out for use for other purposes. That is clearly what this bill is about.

Let us look at the mechanisms the government is using to do this. It clearly indicated that it will increase the levy by 300 per cent; that is, fourfold what it is now. It is fourfold the current levy for inert and putrescible waste. The government says that at least 25 per cent of that will come back into the WARR account and be used for purposes that are the object of the act. The government is saying that up to 25 per cent will be siphoned off to be used by the Department of Environment and Conservation for purposes that are clearly outside the act. That is a further part of the con. The Minister for Water made it clear throughout the debate that it would be a 25-75 per cent split. It was not that it was going to be at least 25 per cent; this government is about 25 per cent. Having

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stated in the Waste Avoidance and Resource Recovery Amendment Bill 2009 that at least 25 per cent will go to the waste avoidance and resource recovery account to be used for the purposes of the act, it actually meant 25 per cent and not 30 per cent or 35 per cent, as might have been the image created by saying at least 25 per cent.

Then when we start to look at some of the other detail, we find that not even 25 per cent will go to the WARR account, because the government has provided that that money from the levy can be used to pay for the running of the Waste Authority and for the board members' fees. Currently, that is met out of Department of Environment and Conservation funds. The amendments that have been passed through this place and will be transmitted to the other house after the third reading allow those amounts to be taken out of the levy money. There is also a mechanism by which the 25 per cent will be calculated that is open to manipulation by the minister, and the minister has been given all the power to set this. The Waste Authority board no longer has to give advice. It can, but it is not mandated that the minister must take its advice before he or she acts.

The government has watered down even that 25 per cent. There will be a fourfold increase on the current levy, and a promise that 25 per cent will go to the WARR account. On the surface, it looks as though that will be the amount of money that is going to the WARR account. But then one starts to see these details that show that not to be the case. It is not the case because now the government will subtract a range of other costs from that 25 per cent, reducing the amount available to the WARR account. The minister also has the ability to play around with how the 25 per cent is calculated, reducing the amount even further.

No wonder the government had to gag the debate. The debate had been moderately long, but the government had to gag it because it could not cover up the lies in the bill. It is a deceitful bill that has been dressed up as being about saving the environment and dealing with waste avoidance and resource recovery. It is nothing of the sort. It undermines the very processes of the act it is amending. The government's view is that if it increases the levy, it will create a deterrent to create waste, but it is also creating an incentive for the department to have more waste, because the more waste that is created, the more levy and the more money for the department. That incentive works both ways. The Waste Authority looks at the range of complex issues on how to try to change public opinion and create price signals in the market to reduce the amount of waste. If the minister does not take that advice and does not look at in a holistic way, there is very little chance of achieving an outcome. There is nothing holistic about this bill in how it deals with waste avoidance and recovery. This bill is purely and simply a way of increasing taxation and turning it into general revenue; it is nothing more, nothing less. That is all it is. The government tried to dress it up as being a show of its concern for the environment, but it is absolute arrant nonsense. I think the debate has shown that, and that is why the government has had to gag it.

I will turn to a couple of other matters about the gagging of the debate that I was most disappointed about. The debate on proposed section 80(1)—about which I was asking questions of the minister—was gagged, and so the minister would not answer my questions. He was not even allowed the opportunity to answer the question. Clause 10 provides for a change to the functions of the Waste Authority by amending schedule 2. I will not go through all of them, but one element within schedule 2 currently is item 14, and this is a function of the Waste Authority. It states —

14. To ensure that the appropriate investigations, audits and inspections in relation to the application of moneys from the WARR Fund are carried out.

One of the amendments carried by the government through its use of the gag is that now the Waste Authority only has to ensure the appropriate investigations, audits and inspections are carried out under proposed section 80(1)(a), which states —

- to fund programmes relating to the management, reduction, reuse, recycling, monitoring or measurement of waste ...

The existing provisions and the new ones included by the government to shift the cost on to the WARR fund, meaning that less money is available for these funding programs, are no longer covered by item 14, which ensures that the board carries out appropriate investigations, audits and inspections in relation to the application of these moneys. What will happen to the moneys which will now come out of the WARR account and which the Waste Authority board has now no responsibility to audit according to schedule 2 of the act? Proposed section 80(1)(b) states that they will be used —

- to fund the preparation, review and amendment of the waste strategy, ...

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

It goes further, but I think that encapsulates it. That review and amendment of the waste strategy might mean spending thousands of dollars on consultants who have to talk with people to develop the strategy and to look at extended producer responsibility schemes et cetera. All those things covered within 80(1)(b) were previously designated as a function of the authority, and was incorporated within its appropriate investigations, audits and inspections role. This bill removes that. No wonder the government gagged the debate. Wait until we go out and tell the constituents of members who voted to gag that debate that they did not want proper audits and responsibilities fulfilled by the board for moneys spent on those things.

Let us go to the next amendment. The payment of the costs of administering the WARR account are no longer covered by item 14, which had previously required appropriate investigations, audits and inspections. The government's amendments that have been carried have taken out that requirement. Then we come to proposed section 80(1)(d), which is a new provision to fund the services and facilities referred to in proposed section 36(1)(da). That proposed section relates back to item 16, which states that the department provides the back-up resources to the Waste Authority. Again, there is now no requirement that the board itself carry out the appropriate investigations, audits and inspections. They will be covered by audits and inspections of the Department of Environment and Conservation, but they are not required of the Waste Authority because the amendment removed that requirement—otherwise it would be caught.

The final element prescribing what funds in the WARR account can spent on, consistent with the current business plan, is stated in proposed section 80(1)(e) —

in payment of the other costs of the administration and enforcement of this Act, including the remuneration of members of the Waste Authority.

The government's amendment states that the functions of the board do not require appropriate investigations, audits or inspections of the money paid to its members. I did not get a chance to get an answer from the minister about why that should be removed. The debate was gagged, and we could not hear the reasoning. Clearly, people will be worried about this. What shonky deal is the government pulling, or did it just get it wrong? Was it the minister's stuff-up and she did not mean to actually pull out that requirement? We do not know, because the gag meant that the minister did not get the opportunity to answer those questions. Members can see that I have real concerns about what the government is doing and the dishonesty of the government's approach, and obviously the reason it wanted to gag it was to ensure that we could not get answers to those sorts of questions.

We will be out there talking to the mums and dads in our electorates, and the pensioners the government is going to hit with this extra fee, and we will be pointing out to them that this government gagged debate on this bill to hide the explanation of why it is doing these things. It is not only taxing people through this means, but also hiding the accountability issues that go with it.

The government has had a political win in getting its hands on the money, resulting from its passage through this place, but that win might have a big sting in the tail. When people get hit with the extra costs through the councils, the councils will not want to carry the blame and will be happy to sheet it home to the government. The opposition will be happy to point out that we took up the fight on behalf of the mums and dads, the families and pensioners in our electorates to say that this was a totally abhorrent way of going about increasing taxes and hitting families who have been bashed and bashed and bashed by this government already. They did not need a new special tax to hurt their pockets even more. We will be certainly pointing that out, and members opposite can see how they go in defending this when again we remind them that it was not about waste avoidance and that this bill does absolutely nothing for that; it is simply about an increased tax. We will certainly be reminding our communities that we stood up for them, we sought to point out that what government was doing was totally false and was really a scam. The government will have to wear that and it will be to the shame of members opposite that not only have they voted for it but also they inflicted a gag on this place so that the serious questions we had could not be asked.

Question to be Put

MR R.F. JOHNSON (Hillarys — Leader of the House) [9.20 pm]: I move —

That the question be now put.

Question put and a division taken with the following result —

Extract from *Hansard*
[ASSEMBLY - Tuesday, 22 September 2009]
p7404b-7439a

Dr Janet Woollard; Ms Margaret Quirk; Mr Mark McGowan; Ms Adele Carles; Mr Paul Papalia; Mr Albert Jacob; Acting Speaker; Ms Janine Freeman; Dr Graham Jacobs; Mr David Templeman; Mr Chris Tallentire; Mrs Liza Harvey; Mr Rob Johnson; Mr John Kobelke; Speaker; Deputy Speaker; Mr Joe Francis; Mr Andrew Waddell; Mr Fran Logan; Mr Terry Redman

Ayes (25)

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

Noes (23)

Ms L.L. Baker	Mr W.J. Johnston	Mr M.P. Murray	Mr A.J. Waddell
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.P. O’Gorman	Mr P.B. Watson
Mr A.J. Carpenter	Mr F.M. Logan	Mr P. Papalia	Mr M.P. Whitely
Mr R.H. Cook	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Dr J.M. Woollard
Ms J.M. Freeman	Mr M. McGowan	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)
Mr J.N. Hyde	Mrs C.A. Martin	Mr C.J. Tallentire	

Pairs

Dr K.D. Hames	Mr B.S. Wyatt
Mr G.M. Castrilli	Mrs M.H. Roberts
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

Question thus passed.

Third Reading Resumed

Question put and a division taken with the following result —

Ayes (25)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr C.C. Porter
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr D.T. Redman
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr T.K. Waldron
Mr I.C. Blayney	Mr J.M. Francis	Mr W.R. Marmion	Mr A.J. Simpson (<i>Teller</i>)
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	
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Mr J.N. Hyde	Mrs C.A. Martin	Mr C.J. Tallentire	

Pairs

Mr G.M. Castrilli	Mrs M.H. Roberts
Dr K.D. Hames	Mr B.S. Wyatt
Mr J.E. McGrath	Ms R. Saffioti
Mr M.W. Sutherland	Mr E.S. Ripper

Question thus passed.

Bill read a third time and transmitted to the Council.