

CONTAINER DEPOSIT AND RECOVERY SCHEME BILL 2016

Second Reading

Resumed from 24 August.

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

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

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

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

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

Here in Western Australia I note that Treasury announced in June that household recycling rates had dropped by one per cent in the 12 months to 30 June down to 40 per cent. That is 20 per cent lower than the 2015 targets set under the government's waste strategy. Clean Up Australia, which a lot of members have gone out there and had

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a go and supported, has said that Western Australia has the most littered bushland in Australia. It estimates that beverage containers make up 21 per cent of the state's total litter, and beverage containers made up 26.9 per cent of the Western Australian total clean-up effort. Beverage containers comprise a very large group and are overrepresented in general waste around the state. It is high time that we identified this opportunity to engage the community. As I said in my opening comments, I would not call this problem strictly an environmental problem. It is clearly that, but there is another aspect. If we create economic value in a system that requires attention for other reasons, then we will get economic participants in that system. It is simply about the market. I believe in markets; they are powerful forces if they are framed correctly. Governments participate in markets every day of the week. I refute the claim of any businessman that governments should get out of the market and out of the way. Such claims are just not true. Governments frame markets every single day. There is always a debate about the extent to which governments should involve themselves in markets; it is always open to interpretation and it depends on the outcomes.

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

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

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

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

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

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

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

Mr A.P. Jacob: A soft landing!

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

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

[Member's time extended.]

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

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

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

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

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

... none of the four Waste Strategy targets —

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

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

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

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

Mr P.C. TINLEY: For completeness of my comments, I note the minister's interjection about the Department of Environment Regulation's response that found mitigating reasons why that is the case, but that does not really matter. I take DER's response as written, but the bottom line is that the trend that nearly 60 per cent of waste goes to landfill is the problem. We are not maximising the economic effect that could potentially be delivered for us. It is a singular problem. Actually, I do not see it as a problem. I think the report is a problem and there are deficiencies, but I see it as an opportunity. We are coming from a low base. The rest of the country is recycling about 60 per cent of waste, but we are travelling at about 42 per cent. Coming off a low base is a great opportunity for us to find and create industries and jobs that will employ more and more Western Australians, where appropriate, to access, as I introduced in my remarks, what is called internationally

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the blue economy. If we start with this legislation, we can achieve a cultural shift. If we start with a container deposit scheme and people working towards reducing their waste, we can make an economic benefit by making a market for it. Where else could we go? What else can be recycled? Lead acid and other associated batteries are one of the biggest single contributors to leaching in landfill and they could be next. Why not look at batteries as something that we can create recycling technology around?

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

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

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

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

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

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

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

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

I think people are well aware that our recycling rates are below the national average and our own targets. It has been demonstrated in jurisdiction after jurisdiction that container deposit schemes not only are successful with high return rates, but also create a flow-on effect to wider recycling. It is curious that this has come up today because today I was in the members' bar where there is often a recycling receptacle, but today I could not see it. The staff have told me that not enough people use it, so they have taken it away. People put material that could be recycled into general waste. I am not that interested in talking about ourselves too much in Parliament—I think we have pretty good working conditions—but we do have to provide some leadership. Really! Is it that hard to recycle our waste? We make jokes in my house about washing our rubbish, which we do regularly before we recycle. It is not that difficult, but I am continually shocked at how little material people recycle, including young people. It is a very easy thing to do but, unfortunately, statistics confirm what I am saying; that is, our recycling rates are poor, awareness of the need to do it is poor, and there is confusion over what items can be recycled. For example, some councils recycle plastic bags and some do not, depending on the centre the recycling is sent to, and that causes some confusion. This point also strengthens the argument for a container deposit scheme, which it is demonstrated assists general recycling rates.

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

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

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

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

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

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

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

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

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we need to do things differently if we are going to reduce landfill and litter, and if we are going to imprint a change in attitude in the community to recycling.

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

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

Ms S.F. McGURK: Right; yes.

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

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

[Member's time extended.]

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

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Territory and the Northern Territory—have also banned single-use plastic bags. It is only a matter of time before we start looking at implementing that sort of change to force some behavioural change in the community.

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

The Barnett government likes to talk about its commitment to the environment, and likes to say that it supports initiatives that benefit the environment and, in this case, a container deposit scheme, yet in this case it had been put into the out years. However, let us look at its actions. It has voted once against this proposal. Let us see how it votes on this bill before the house today. When it had an opportunity to support one council in a discrete trial of banning single-use plastic bags, it could not bring itself to do so. It would have been such a good opportunity to see how it could be implemented, with a view to implementing it much more widely, perhaps statewide, or simply leaving it to other councils to decide whether to implement the change. It makes a lot of sense.

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

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

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

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

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

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

Further on, the report states —

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

Extract from Hansard

[ASSEMBLY — Wednesday, 19 October 2016]

p7356a-7384a

Mr Peter Tinley; Ms Simone McGurk; Ms Janine Freeman; Mr Albert Jacob; Mr Peter Abetz; Dr Tony Buti; Mr Bill Johnston; Acting Speaker; Mr Chris Tallentire

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

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

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

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

I gather that is household waste —

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

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

The history in this place is that in December 2007, the Western Australian Labor government at the time was at the forefront of good waste management legislation through the introduction of the Waste Avoidance and Resource Recovery Act 2007. That legislation was the result of work done by Labor environment ministers from 2001, who were driving us towards taking responsibility for reducing waste in Western Australia. The purpose of that act was to input value into waste and include it in the economic cycle so that people could see that there was a benefit to waste reduction that countered the really high cost. In 2011 a private member's bill for container deposit schemes managed and administered by the Waste Authority was introduced into Parliament by the WA Labor opposition. That was voted down.

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

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

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

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

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

Several members interjected.

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

Ms S.F. McGurk: Half a shilling.

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

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

Mr A.P. Jacob: And the ACT.

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

Mr A.P. Jacob: And Victoria.

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

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

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

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

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

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

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

[Member's time extended.]

Ms J.M. FREEMAN: From the point of view of the Mirrabooka electorate, anything that would encourage people to pick up waste in the area—particularly plastic bottles, water bottles, sports drink bottles, bottles from spirit-based mixed drinks and cans—would be of great assistance. Since being elected, I have battled with councils, local businesses and the Public Transport Authority over a strip of land that runs behind the bus station in Mirrabooka. At some stage, maybe during the 2013 campaign, most members went out to Mirrabooka bus station because people stood in front of it to talk about how the Metro Area Express light rail would be delivered into the area. People such as the Premier, and perhaps the minister too, may be familiar with the front of Mirrabooka bus station having held multiple media events there to tell the people that they would deliver something, which, unfortunately they have not delivered and had no intention of doing so. At the side of Mirrabooka bus station, along the fence, the litter is appalling. In some ways, the dumping is worse than some tip sites. The poor City of Stirling has to go in there regularly to clean it out. Quite often, there are lots of drink containers. I have no doubt that just this recycling program will not resolve the whole issue. However, I cannot believe that despite many attempts to try to get that area cleaned up and to have some process around dealing

with littering, everyone still holds up their hands to say, “It’s not us!” The City of Stirling comes in every now and again to do its best, but there is the constant, “It’s not us.” Having that sort of area in a town centre—admittedly, it is a little bit behind the town centre—does not reflect well at all on how the community perceives itself. Frankly, it is disrespectful of the community. Anything that will alleviate some of the dumping that goes on at that site will be of assistance, and I think this container deposit and recovery scheme could at least put a little bit of a dent in it because there will be a financial gain in not simply dumping plastic bottles there.

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

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

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

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

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

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

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

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sure about tap water quality. Apart from the fact that many of them have young children who are not getting the benefits of fluoride in water, the quality of the water in Western Australia is exemplary; it is fine.

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

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

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

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

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

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

Several members interjected.

The ACTING SPEAKER: Members!

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

Several members interjected.

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

The ACTING SPEAKER: Members, let us settle down.

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

Several members interjected.

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

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

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

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

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

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

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

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

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

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

This is a decision —

Several members interjected.

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

Mr J.R. Quigley interjected.

The ACTING SPEAKER: Member for Butler!

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

Ms R. Saffioti interjected.

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The ACTING SPEAKER: Through the Chair, please.

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

Several members interjected.

The ACTING SPEAKER: Members!

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

Several members interjected.

The ACTING SPEAKER: Members!

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

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

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan!

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

Ms R. Saffioti interjected.

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

Ms R. Saffioti interjected.

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

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

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

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

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

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

Several members interjected.

The ACTING SPEAKER: Members.

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

Ms R. Saffioti: Where is the legislation?

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

Ms R. Saffioti interjected.

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

Ms R. Saffioti interjected.

Mr A.P. JACOB: Yes. It is —

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

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

Several members interjected.

The ACTING SPEAKER: Members, just settle down.

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

Several members interjected.

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

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

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

Ms R. Saffioti: Well, do it!

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

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

Several members interjected.

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

Point of Order

Mr N.W. MORTON: Point of order.

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

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

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

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

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

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

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

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

Debate Resumed

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

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Mr J.R. Quigley interjected.

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

Dr A.D. Buti: Tell us why.

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

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

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

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

Ms R. Saffioti: Well, do it!

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

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

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

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

Several members interjected.

The ACTING SPEAKER: Members!

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

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

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

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

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

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6. Producer or importer of beverage containers liable to pay beverage container environmental levy

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

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

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

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

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

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

Mr A.P. JACOB: Yes.

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

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

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

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

Several members interjected.

Mr A.P. JACOB: All right.

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

Mr A.P. JACOB: What I am quoting —

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

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

Dr A.D. Buti: But why?

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

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

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

Dr A.D. Buti: But, minister —

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

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

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

Several members interjected.

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

Mr J.R. Quigley interjected.

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

Mr J.R. Quigley interjected.

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

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

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

Mr P.B. Watson interjected.

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

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

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

South Australia and the Northern Territory are currently the only Australian jurisdictions with a container deposit scheme. As mentioned earlier, South Australia introduced its scheme in 1977 and the Northern Territory’s scheme commenced on 3 January 2012. The commitment to a container deposit scheme in

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

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

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

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

Mr A.P. JACOB: Yes.

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

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

Having made the government decision to pursue a container deposit scheme, I discovered very quickly that these types of schemes are extraordinarily complex, and a range of issues came up that we had not even considered previously. A good example of that is that within an hour or two of announcing the scheme, somebody asked me how crushed cans could be used in a reverse-vending machine reading barcodes. How were we going to design the scheme for people seeking to recycle aluminium cans? Members would have seen printed on aluminium cans now that people can get 10c in South Australia and the Northern Territory. How would our scheme that relied on a barcode allow people to crush cans for the obvious storage benefits? That is one very small example of the complexities that suddenly emerge when governments make the final decision to implement a container deposit scheme. We are working through those complexities now. That example reinforces the value of consulting and working with fellow jurisdictions. We have the opportunity right now to work with the Queensland government; the New South Wales government, which is implementing its own scheme; local government; industry; and other stakeholders to not only ensure national consistency, but also workability. We have been speaking to many stakeholders already, and we will have a working group to sit around this. On 17 August, the government announced that a container deposit scheme for drink bottles and cans would be introduced by mid-2018.

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

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

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

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

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

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

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

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

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

Mr P.B. Watson interjected.

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

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

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

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

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

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

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

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

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

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

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

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

Mr A.P. JACOB: Whatever!

The ACTING SPEAKER: Member for Albany!

Mr P.B. Watson interjected.

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

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

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

Sitting suspended from 6.00 to 7.00 pm

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

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Several members interjected.

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

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

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

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

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

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

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

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

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Netherlands and Germany for people to take the empties with them in shopping bag when they go shopping and, before entering the supermarket, just pop them into the machine. It is one of the things that people do.

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

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

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

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

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

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

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

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

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

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

Mr P. ABETZ: Right, yes.

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

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

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

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

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

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

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

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

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

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

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

Mr W.J. Johnston: Who sorts it?

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

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

What I found particularly interesting with the waste-to-energy arrangement is that instead of having what we call kerbside collections, they have depots where people can drop that material so that the scrap metal, wood and old furniture gets sorted. It all goes into the waste-to-energy plant, as does what we call putrescible waste. The beauty of these plants is that they are within the city, which means that the garbage trucks do not have to travel very far. One of the things that we need to think about is the amount of fuel and CO₂ emissions that would be produced if there were three or four garbage trucks going by instead of just one. That needs a little bit of thinking through to determine how best we can do it.

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

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

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

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

Mr A.P. Jacob: Yes.

Extract from Hansard

[ASSEMBLY — Wednesday, 19 October 2016]

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Dr A.D. BUTI: Why did the government not take action at the end of 2011? The former Minister for Environment stated that the government would oppose Labor's bill in 2011 because it was going to wait for the national consultation regulation impact statement. That was completed and the government sat on its hands. In August this year, the current minister finally decided that we would have a scheme that our spokesperson for the environment on this side of the chamber had long been proposing. To understand the numbers, it is difficult to get things passed in opposition if there is not the support of the government. That is why we have not been able to achieve things that we wanted to—because the government has blocked them. The reason the government has blocked them is that we instigated them. It is interesting that tonight the minister was talking about a national scheme. Did the minister not say that efforts to pursue a national scheme had fallen by the wayside, but that Western Australian policy would seek to align itself with changes in Queensland and New South Wales? In other words, in the end the government was being practical, realising that there would be no national scheme, but it would not go ahead until 2018. Why would the government not have agreed to the Labor proposal in 2011? For one reason only —

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

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

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister!

Point of Order

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

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

Debate Resumed

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

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

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

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

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

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

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

Several members interjected.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Several members interjected.

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

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

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

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

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Western Australia. He has not undertaken to seek legal advice from our own State Solicitor on a bill that is before this house.

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

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

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

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

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

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

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

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

[Member's time extended.]

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

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

Of course, the environment was the issue.

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

If we accept as we must that the legislature had rational and legitimate grounds for apprehending that the sale of beer in non-refillable bottles generates or contributes to the litter problem and decreases the

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State's finite energy resources, legislative measures which are appropriate and adapted to the resolution of those problems would be consistent with s 92 so long as any burden imposed on interstate trade was incidental and not disproportionate to their achievement. Accordingly, the validity of the 1986 legislation rests on the proposition that the legislative regime is appropriate and adapted to the protection of the environment in South Australia from the litter problem and to the conservation of the State's finite energy resources and that its impact on interstate trade is incidental and not disproportionate to the achievement of those objects.

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

... the measures adopted were not appropriate nor adapted to achieving their purpose. The discrimination against the interstate trade in non-refillable beer bottles carried on by the Bond Brewing Group in South Australia was not justified on either ground, namely, the control of litter or the conservation of energy. In terms of controlling litter, the object of the legislation was to encourage the return and collection of containers, and the 15 cent deposit for non-refillable beer bottles compared with the 4 cent deposit for refillable beer bottles was disproportionate in terms of encouraging the return of the former, given South Australia's admission that a 6 cent deposit for the first twelve months of the scheme and a 4 cent deposit thereafter was sufficient to ensure the return of non-refillable beer bottles. Nor was there any justification in the difference in the return system between non-refillable beer bottles, returns of which had to be accepted by retailers, and refillable beer bottles in respect of which no similar obligation existed. There was simply no connection at all between this form of discrimination and the object of controlling litter.

As regards conserving South Australia's finite reserves of natural gas, the Court concluded that no significant saving was made by discouraging the use of non-refillable bottles by the Bond Brewing Group since all their bottles were manufactured outside South Australia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Several members interjected.

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

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

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

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

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

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

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

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

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

Mr A.P. Jacob: I did.

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

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

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

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

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

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

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

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

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

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

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

Mr W.J. Johnston interjected.

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

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

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

Mr W.J. Johnston: Hear, hear!

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

Mr A.P. Jacob interjected.

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

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

Mr N.W. Morton interjected.

The ACTING SPEAKER: Member for Forrestfield!

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

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

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

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

As the Bill imposes a levy with all the characteristics of a tax, it is necessary to draw your attention to s. 46(7) of the Constitution Acts Amendment Act 1899 (WA). Section 46(7) provides that Bills imposing taxation shall deal only with the imposition of taxation. However, the proposed Bill deals with the establishment of a refund scheme, including the criminalising of claims to refunds on beverage containers purchased outside Western Australia, which appears to go beyond the imposition of the levy. Therefore, the Bill risks breaching s. 46(7).

Even so, s. 46(9) of the *Constitution Acts Amendment Act 1899* (WA) provides that any failure to observe any provision in s. 46 is not to affect the validity of any Act enacted. Consequently, failure to comply with s. 46(7) is essentially a procedural point, but one which might be pursued by other members of Parliament.

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

Mr A.P. Jacob interjected.

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

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

Mr A.P. Jacob interjected.

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

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

Mr A.P. Jacob interjected.

The ACTING SPEAKER: Minister!

Mr A.P. Jacob interjected.

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

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

Mr A.P. Jacob interjected.

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

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

Several members interjected.

Point of Order

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

Mr J.R. Quigley interjected.

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

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

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

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

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

Several members interjected.

The ACTING SPEAKER: Excuse me, members.

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

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

Several members interjected.

The ACTING SPEAKER: Excuse me!

Dr K.D. Hames interjected.

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

Mr N.W. MORTON: I might start again. I have been in here for this debate. I have been listening to everything that has been said. Further to the member for Cannington's point of order, I clearly heard the member for

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Gosnells direct his comments to the minister. The minister is within his rights to respond to comments that are passed across the chamber. I think that is fair and the minister should be allowed to be heard out so he can say what he had to say in response to the member for Gosnells' comments.

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

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

Several members interjected.

Mr A.P. JACOB: Standing order 92 —

Several members interjected.

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

Debate Resumed

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

Point of Order

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

Several members interjected.

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

Several members interjected.

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

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

Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer or members of the Assembly or the Council ...

The member for Gosnells referred to both the Governor and me and made a personal reflection on my attendance or otherwise at a function of the Governor.

Several members interjected.

The ACTING SPEAKER: Members!

Mr W.J. Johnston interjected.

The ACTING SPEAKER: Member for Cannington, watch the language. There is no point of order.

Want of Message from Governor — Ruling by Acting Speaker

The ACTING SPEAKER (Mr I.M. Britza): The question is that the bill be read a second time. However, I advise that the Container Deposit and Recovery Scheme Bill 2016, if passed, would provide for the payment of moneys in certain circumstances. Section 46(8) of the Constitution Acts Amendment Act provides that a vote, resolution or bill for the appropriation of moneys shall not be passed unless the purpose of the appropriation has been recommended by message of the Governor to the Assembly. I rule that this bill requires a message and note that one has not been received. Therefore, in accordance with the practice of the house, the question for the second reading will not be finally put to the house unless a message is received. I direct that the bill go to the bottom of the notice paper until a message is received.

Given that it is 8.00 pm, that concludes private members' business.

Several members interjected.

The ACTING SPEAKER: Member for Warnbro!

Several members interjected.

Mr F.A. Alban: You're such a smart-arse!

Withdrawal of Remark

The ACTING SPEAKER (Mr I.M. Britza): Member for Swan Hills, I am calling you. That is not the kind of language for this house, and I ask you to withdraw it.

Mr F.A. ALBAN: I withdraw it.

Extract from *Hansard*

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The ACTING SPEAKER: Thank you.

Several members interjected.

Mr W.J. JOHNSTON: Mr Acting Speaker —

The ACTING SPEAKER: Is this a point of order?

Mr W.J. JOHNSTON: Yes. The member for Swan Hills did not comply with the standing orders in withdrawing. He has to withdraw unconditionally. He cannot make further remarks—which he did. That is a clear breach of the standing orders of this Parliament and should never be tolerated.

The ACTING SPEAKER: Thank you.

Debate adjourned, pursuant to standing orders.