

**KEEP AUSTRALIA BEAUTIFUL — LITTER INFRINGEMENTS**

*Grievance*

**DR M.D. NAHAN (Riverton — Leader of the Opposition)** [9.52 am]: My grievance is to the Minister for Environment. No comment on the member for Thornlie, the Parliamentary Secretary to the Minister for Water; Fisheries; Forestry; Innovation and ICT; Science, but it would have been nice for the appropriate parliamentary secretary to be here today to hear my grievance. As I said, my grievance is to the Minister for Environment and it relates to Keep Australia Beautiful WA.

The issue that I would like to raise was brought to my attention by a constituent, Mr Paul Moran of Shelley, who found himself in a situation that left him stunned. I met Mr Moran a number of weeks ago, when he told me about an infringement notice that he received on 16 August, which alleged that at 5.58 am on 17 July, in the area of Riley Road, Riverton, a driver of Mr Moran's work vehicle was seen depositing a cigarette butt or causing a cigarette butt to be deposited on any land or into waters without consent. As someone who does not smoke and never has, Mr Moran—by the way, he is the only driver of his work vehicle, and he was in the vehicle that morning—was perplexed at receiving this infringement notice.

In order to respond to the situation, he found he had the following options: he could name another driver, which would be incorrect; he could accept guilt and pay a \$200 fine; or he could contest the matter in court. Mr Moran was warned that failure to deal with the infringement may result in prosecution proceedings being taken against him. No evidence was provided to Mr Moran to confirm that the alleged offence had indeed been committed, and he was unaware of who had made the allegation.

It should also be acknowledged that when the police allege that a person has exceeded the speed limit in their vehicle, they are usually provided with evidence, such as a photo, as well as the name of the reporting officer. When a person receives a parking infringement, they are generally provided with photographic evidence from the relevant authority, as well as the name of the person making the allegation. In this instance, however, it is assumed that a "litter reporter", who has volunteered for the position, has made an untrue allegation against Mr Moran. Furthermore, the onus of proof is not with Keep Australia Beautiful WA to prove the allegation, but Mr Moran was expected to attend court to make the case that he did not commit the alleged unlawful act. Litter reporters are, in effect, given great power and responsibility without any training or character checks, yet the reports are allowed to remain anonymous. Although I recognise that the current environment minister did not create this process, I would like the parliamentary secretary representing the environment minister to explain why it can continue without alterations. I would suggest some alterations.

In an effort to clear his name, Mr Moran obtained a letter from his long-time GP stating that he has no smoking history. Indeed, he is a strong anti-smoker. He showed me his vehicle. He does not smoke in that vehicle; I could tell. Mr Moran has signed a legally binding statutory declaration confirming that he does not smoke and he does not carry passengers in his work vehicle, nor do other people use his vehicle. Despite the fact that he does not smoke, an unknown identity has accused him of depositing a cigarette in an unlawful manner during a period of complete darkness, so I do not know how the reporter saw the cigarette. Mr Moran would need to attend court to dispute the allegation and impose further costs on the state and himself, as well as significant stress for him and his wife. He is a builder. He is a very busy man.

Since our meeting, I have been informed that the infringement was withdrawn after Mr Moran sent the GP's letter and the statutory declaration to the department. However, Mr Moran and I want to pursue this matter with the minister as the process is grossly flawed. My understanding is that a litter reporter is not an officer of the law nor a local government employee with training, but someone who has simply volunteered for the position. After a quick look at the Keep Australia Beautiful website, it appears that it is fairly simple to register as a litter reporter. To submit a report, the reporter has to note the vehicle licence plate, whether the offender was the driver or passenger, the offender's gender, the location of the offence, time and date, and type of litter. Other information can also be extremely useful, such as an accurate description of the offender's appearance, any distinguishing features of the vehicle or other important information surrounding the alleged offence. What is done with the report? After successful verification of the vehicle's numberplate with the Department of Transport, Keep Australia Beautiful proceeds with issuing a litter infringement notice to the registered owner of the vehicle. I note that the website states that although it is great if photographic evidence is provided, it is not required.

Although I recognise the need to crack down on littering and seek the assistance of the public, there is surely a better system. How can we allow an unknown identity to make an allegation against someone without proof and leave them to fight the matter in court in order to prove their innocence? The parliamentary secretary may defend the process by pointing out that the department withdrew the infringement notice against Mr Moran in this case. However, I would highlight that Mr Moran estimates that dealing with this cost him almost \$500 in GP costs and forgone earnings in organising himself to fight these allegations. That is before we factor in the stress and

frustration that he has experienced. He does not like to have infringements against anything, particularly littering. He found it an affront to his character. Importantly, whatever happened to “innocent until proven guilty”?

This system needs to be reviewed, as I am sure this situation happens often, but unlike Mr Moran, other people may not have the capacity to fight the matter or may simply pay the fine to get away from it. I request that the minister take a look at this. This is not a criticism of Keep Australia Beautiful or people reporting littering; it is just that we need proper due process. I suggest that we need a better assessment process of the infringement claims, we should have some character checks or some assessment and we should have better forms of verification. Perhaps it is time that the litter reporters have some verification of their bona fides.

**MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary)** [10.00 am]: I thank the Leader of the Opposition, the member for Riverton, for giving us notice of this grievance. On behalf of the minister, Hon Stephen Dawson, and the parliamentary secretary who cannot be here today, I am happy to respond on this matter.

Let me begin by acknowledging the stress and frustrations faced by the member’s constituent Mr Paul Moran of Shelley and acknowledging that it must be a very stressful and annoying, and indeed, as the member outlined, costly process that he has found himself entrapped in. I wish to say a little bit about the process of litter reporters. The Leader of the Opposition rightly raised the issue of the legitimacy of people self-nominating as litter reporters. The Litter Act was the last piece of relevant legislation that we debated in this place in 2012 when the member for Nedlands was the Minister for Environment and there was much discussion around these matters. We sought to increase fines and improve enforcement powers. Since then, the number of registered litter reporters has increased from 5 000 in 2012 to now over 13 000 litter reporters. The process is that a litter reporter provides information to an authorised officer, who is empowered through the Litter Act 1979 to make investigations. The fact that a litter report is made is not the thing that launches the issue of an infringement notice. There is a checking process and an authorised officer would have looked at this case, but it seems that that is where things may have gone wrong. I do not think we want to in any way discourage people from becoming litter reporters. Indeed, I think we should be encouraging people to download the app. It is quite easy to do and it makes it very clear that if somebody makes a vexatious or malicious report, it can trigger some sort of legal investigation.

As we know, in this case it seems that the report was false. Normally when the person receives advice, they can make a statutory declaration stating that they did not litter. That should happen at a stage before the infringement notice is issued. That is when I think things may have gone wrong because if a person can write that statutory declaration, they do not have to enter into any court process. Things seem to have jumped ahead in this case, which caused Mr Moran this unnecessary frustration and expense.

It is important to note that the whole issue of litter, especially around cigarette butts, is something that the government is very concerned about. Overall, we have been doing quite well on littering. We have managed to reduce the rate of increase of littering in the state. We have measures in place to further improve things, but when it comes to cigarette butts, in the last 12 months we have seen a 21.9 per cent increase in the amount of cigarette litter. So it can be said that it is not only a vile habit from a morally bankrupt smoking industry, but also that it is an industry that is doing nothing to help reduce the amount of littering that its products create. The government has just, in the last week, announced a program that will be rolled out very early in 2019 to attack the very problem of cigarette litter. Overall, as I said, our littering figures have improved but there is still a lot more to be done. We know that the marginal increase of litter volume on last year, which was mainly attributed to the impact of increases of plastic industrial containers and plastic soft drink bottles, should be improved by the rollout of the container deposit scheme. It will be happening in early 2020.

Of the thousands of people who are currently registered as litter reporters, I think it can be said that the vast majority are people of great integrity who are using the app to gather evidence and then forwarding that to the authorised officers who generally work for the Department of Water and Environmental Regulation, although they can also be authorised local government officers. They are given the additional training that is required to ensure they are able to sift out problem cases, if there are any problem cases, or possibly vexatious or malicious cases. Those cases should be sifted out but, in this case, it seems that did not happen. I understand that the minister has spoken to the Leader of the Opposition behind the Chair about this matter and that there is a means to a satisfactory resolution. The Leader of the Opposition rightly pointed out that there is a flaw in the system if this sort of thing were to continue. I think the evidence so far is that this is an absolute one-off and, at the moment, I think the legislation that was reinforced by the member’s side when he was last in government, which was supported by us, is in the vast majority of cases absolutely sound and robust. In fact, it is a very important weapon in our actions against littering and the blight that littering causes in our community. When it comes to cigarette butts, there is of course a very serious risk that a cigarette butt could lead to a fire when it is irresponsibly discarded. I think the current legislation, as it stands, is doing a good job. The Leader of the Opposition highlighted a particular case that is going to be resolved. We are pleased that the member has been able to act on behalf of his constituent in this way. Thank you for the grievance.